

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 BRETT J. PIERCE
11 (License No. A.0205486-CR),

12 Respondent.

Case No. 2019-316, AP19.026.N

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

FILED

OCT 09 2020

NEVADA COMMISSION OF APPRAISERS

Kelly Valadez

13 This matter came on for hearing before the Nevada Commission of Appraisers of Real
14 Estate, State of Nevada ("Commission") on Tuesday, September 15, 2020, via a Webex
15 virtual videoconference hearing. Respondent Brett J. Pierce ("Respondent") failed to
16 appear. Peter K. Keegan, Deputy Attorney General, appeared and prosecuted the
17 Complaint on behalf of petitioner Sharath Chandra, Administrator of the Real Estate
18 Division, Department of Business & Industry, State of Nevada ("Division").

19 **I. JURISDICTION**

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

24 **II. FINDINGS OF FACT**

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

- 28 1. The Division served a copy of the Complaint and Notice of Hearing, Notice of

1 Complaint and Obligation to Respond, and the Notice of Documents upon the Respondent
2 at least 30 days prior to the hearing in schedule in this matter for Tuesday, September 15,
3 2020.

4 2. Respondent was served copies of the above-reference documents, via certified
5 mail at the following two addresses: (1) 590 Douglas Court, Incline Village, NV 89451; and
6 (2) 136 Juanita Dr., #4, Incline Village, NV 89405.

7 3. The Respondent failed to appear at the hearing on Tuesday, September 15,
8 2020, and did not request for a continuance of this matter.

9 4. The Respondent has been licensed by the Division as a Certified Residential
10 Appraiser, License No. A.0205486-CR since September 2008.

11 5. On or about March 25, 2019, the Division received a complaint/statement of
12 fact asserting that the Respondent completed a uniform residential appraisal report
13 ("Appraisal Report") for Homeowners Financial Group USA, through the Appraisal
14 Management Company ("AMC") Appraisal Mark.

15 6. The complaint/statement of fact stated that the Respondent's Appraisal
16 Report contained several violations of the Uniform Standards of Professional Appraisal
17 Practice ("USPAP").¹

18 7. The complaint/statement contained an internal appraisal review conducted
19 by Summit Funding Inc.'s staff appraisers.

20 8. The Respondent's Appraisal Report was prepared for a condominium property
21 within the Idlewild Riverfront 2 Condominiums complex, located at 2875 Idlewild Drive,
22 Unit 108, APN 010-543-32 ("Property"), built in 1987.

23 9. The gross living area of the Property recorded as 1,259 sq. ft.

24 10. The intended use of the appraisal performed by the Respondent was specified
25 as "lender/client to evaluate the property that is the subject of this appraisal for a mortgage
26 finance transaction."

27
28 ¹ The 2018-2019 edition of the Uniform Standards of Professional Appraisal Practice ("USPAP") is applicable here.

1 11. The intended user of the Respondent's Appraisal Report is identified as
2 "lender/client."

3 12. The Respondent's Appraisal Report states the appraised value is \$359,000.00.

4 13. The effective date of Respondent's Appraisal Report is identified as January
5 11, 2019, and the signature date is January 30, 2019.

6 14. No supporting information was provided for the opinion of highest and best
7 use, where the Respondent checked the box present use.

8 15. The Respondent's work file has no documented information on any of the
9 sales, or a verification of the sales utilized in the Appraisal Report.

10 16. The Respondent's work file does not contain any supporting MLS sheets.

11 17. The lack of supporting documentation combined with the report stating the
12 information was obtained from the MLS makes the report misleading.

13 18. The work file does not contain a copy of the purchase agreement contract.

14 19. The Appraisal Report indicates that the streets are public, when in fact, all
15 the interior roads of the Idlewild complex are private and privately maintained.

16 20. The Appraisal Report indicates the flood zone as "AE," when in fact the flood
17 zone is "X."

18 21. The Appraisal Report indicates that the number of parking spaces is 228 with
19 a 2% ratio, when in fact there are only 171 parking spaces with a 1.5% ratio.

20 22. The Appraisal Report indicates that there are 20 units rented and 94 owner
21 occupied units when the Washoe County Assessor's Office ownership database reported 51
22 of the 114 units are owner occupied.

23 23. The work file does not include supporting information or analysis as to why
24 the income approach is not included in the scope of work.

25 24. The Appraisal Report includes an addendum referencing changes made on
26 January 29, 2019; however, the work file does not include a copy of the original report, the
27 engagement letter, or the request for an amendment.

28 25. The Respondent's work file does not include analysis or calculations for the

1 noted 5% and 10% quality adjustments, and the 10% market supported quality
2 adjustments.

3 26. The Respondent's work file does not include calculations or analysis regarding
4 the non-adjustments for HOA dues.

5 27. The Appraisal Report does not include commentary regarding the market
6 reaction regarding HOA fee disparities in the sales comparables.

7 28. The work file does not contain supporting information, analysis, or
8 calculations regarding the adjustments for bathroom count, gross living area, or garage
9 capacity.

10 29. The 1004MC, Market Conditions Addendum, noted the medium comparable
11 sales prices were increasing, stating "[t]he market analysis and research indicated that
12 values in this area have been increasing over the past year;" however, the Appraisal Report
13 stated that property values are stable.

14 30. The work file includes no evidence of the appropriate methods and techniques
15 necessary to develop adjustments applied to the sales comparison approach.

16 31. The Appraisal Report included a series of errors that, although individually
17 might not significantly affect the results, in the aggregate, affect the credibility of the
18 results.

19 32. The neighborhood description erroneously references the North Lake Tahoe
20 community, when the subject property location is in Reno, NV.

21 33. The market conditions section of the Appraisal Report identifies that
22 "[c]urrent market conditions in the area reflect current market conditions in California,"
23 but fails to clarify if these conditions are relevant to the Reno, Nevada market area.

24 34. By making a series of errors, including inaccurate neighborhood and market
25 area descriptions, erroneous market area reporting, unsupported adjustments and non-
26 adjustments, which individually may not significantly affect the results of the report, the
27 errors as a whole affected the credibility of the report results.

28 35. By not including the income approach, an analysis of the subject's FEMA

1 designated flood zone, and/or analysis of the HOA dues as part of the scope of work, the
2 credibility of the report results are affected.

3 36. The Respondent did not clearly and accurately set forth the appraisal in a
4 manner that was not misleading.

5 37. The Appraisal Report did not contain sufficient information to enable the
6 intended user of the appraisal to understand the report properly due to the number of
7 mistakes and erroneous information found within the appraisal report.

8 38. The seven comparable sales utilized by the Appraiser contained numerous
9 mistakes and/or inconsistencies.

10 39. On or about February 28, 2020, the Division sent the Respondent, via certified
11 mail, an NRS Chapter 233B Letter, as required by NRS 233B.237(3) indicating that the
12 Division's investigation had uncovered sufficient evidence to recommend the filing of a
13 formal complaint by the Division with the Nevada Appraisal Commission.

14 **III. CONCLUSIONS OF LAW**

15 The Commission, based upon the preponderance of the evidence, makes the
16 following legal conclusions:

17 1. The Division properly served notice, via certified mail, of the underlying
18 Complaint upon the Respondent at his last known addresses pursuant to NRS 645C.500(5).

19 2. Based upon the Respondent's failure to appear the scheduled hearing
20 September 15, 2020, default is hereby entered against the Respondent pursuant to NAC
21 645C.502 and all charges specified in the complaint are considered as true.

22 **3. First Violation**

23 The Respondent failed to prepare the appraisal report for the Property in
24 Compliance with the Standards of the Appraisal Foundation. These Standards are
25 published in the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted
26 by the Appraisal Standards Board of the Appraisal Foundation, as authorized by Congress,
27 and adopted in Nevada by NAC 645C.400.

28 The USPAP ETHICS RULE requires that an appraiser must not willfully or

1 knowingly violate the requirements of the RECORD KEEPING RULE; and must not
2 perform an assignment in a grossly negligent manner.

3 Respondent violated the USPAP ETHICS RULE, as codified in NAC 645C.405(1), by
4 performing the assignment in a grossly negligent matter. The work file contains no
5 information as to how the adjustments were developed or quantified. The Respondent's
6 actions constitute unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for
7 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

8 **4. Second Violation**

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

15 The Respondent violated the USPAP RECORD KEEPING RULE, as codified in NAC
16 645C.405(1), by failing to keep and maintain true copies of all written reports, documented
17 on any type of media and all other data, information, and documentation necessary to
18 support the appraiser's opinions and conclusions, and to show compliance with USPAP, or
19 references to the location(s) of such other data, information or documentation. The
20 Respondent's comparable adjustments fail to provide supporting information for the
21 adjustments of quality, bathroom count, gross living area, garage capacity, or HOA dues.
22 The Respondent also failed to include copies of the original Appraisal Report, amendment
23 request, and purchase contract. The Respondent's actions constitute unprofessional
24 conduct, pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS
25 645C.460(1)(a) and/or (b).

26 **5. Third Violation**

27 The COMPETENCY RULE requires that an appraiser must: (1) be competent to
28 perform the assignment; (2) acquire the necessary competency to perform the assignment;

1 or (3) decline or withdraw from the assignment.

2 The Respondent violated the USPAP COMPETENCY RULE, as codified in NAC
3 645C.405(1), by failing to demonstrate competency when he did not use or explain the non-
4 use of the income approach. The Respondent also failed to demonstrate familiarity with the
5 Reno condominium market when he misidentified the neighborhood. This is unprofessional
6 conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action, pursuant to
7 Nevada Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

8 6. Fourth Violation

9 The SCOPE OF WORK RULE requires that an appraiser to: (1) identify the problem
10 to be solved; (2) determine and perform the scope of work necessary to develop credible
11 assignment results; and (3) disclose the scope of work in the report. An appraiser must be
12 prepared to demonstrate that the scope of work is sufficient to produce credible assignment
13 results.

14 The Respondent violated the SCOPE OF WORK RULE, as codified in NAC
15 645C.405(1), by failing to include supporting information or analysis as to why the income
16 approach was not used. The Respondent's failure to include supporting information,
17 analysis, or calculations regarding the adjustments for bathroom count, gross living area,
18 or garage capacity also diminished the credibility for the assignment results. This is
19 unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action,
20 pursuant to Nevada Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

21 7. Fifth Violation

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

25 The Respondent violated USPAP Standards Rule 1-1(a), as codified in NAC
26 645C.405(1), by making several errors in the appraisal report with several inconsistencies
27 or misrepresentations in the body of the report making it apparent that the appraiser did
28 not understand how to correctly employ recognized methods and techniques. This is

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

3 **8. Sixth Violation**

4 USPAP Standards Rule 1-1(c) requires that an appraiser must not render services
5 in a careless or negligent manner, such as by making a series of errors that, although
6 individually might not significantly affect the results of an appraisal, in the aggregate
7 affects the credibility of those results.

8 The Respondent violated USPAP Standards Rule 1-1(c), as codified in NAC
9 645C.405(1), by failing to provide supporting information obtained from the MLS, a copy of
10 the sales contract, misidentifying the interior roads of the Property, the flood zone
11 designation, the market conditions, parking space ratio, and consistently making mistakes
12 and/or discrepancies in the 7 comparables. The Respondent's actions constitute
13 professional incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary
14 action pursuant to NRS 645C.460(1)(a) and/or (b).

15 **9. Seventh Violation**

16 USPAP Standards Rule 1-2(h) requires an appraiser must determine the scope of
17 work necessary to produce credible assignment results in accordance with the SCOPE OF
18 WORK RULE.

19 The Respondent violated USPAP Standards Rule 1-2(h), as codified in NAC
20 645C.405(1), because of the numerous inconsistencies and mistakes found within the
21 comparables utilized in the report and the misidentification of the 1004MC market
22 conditions. The Respondent's actions constitute professional incompetence pursuant to
23 NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
24 and/or (b).

25 **10. Eighth Violation**

26 USPAP Standards Rule 1-5(a) requires an appraiser must analyze all agreements of
27 sale, opinions, or listing of the subject property current as of the effective date of the
28 appraisal.

1 The Respondent violated USPAP Standards Rule 1-5(a), as codified in NAC
2 645C.405(1), by failing to include or analyze the purchase contract for the Property. The
3 Respondent's actions constitute professional incompetence pursuant to NRS 645C.470(3)
4 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

5 **11. Ninth Violation**

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

9 Respondent violated USPAP Standards Rule 2-1(a), as codified in NAC 645C.405(1),
10 due to the lack of supporting documentation in the work file, the numerous mistakes and
11 inconsistencies found within the report and the sales utilized. The Respondent's actions
12 constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for
13 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

14 **12. Tenth Violation**

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

18 Respondent violated USPAP Standards Rule 2-1(b), as codified in NAC 645C.405(1),
19 by failing to include sufficient supporting MLS information regarding the comparables,
20 and/or discussion regarding the neighborhood analysis relative to the subject, the selection
21 of the comparable sales and listings, and the quantification of the adjustments. The
22 Respondent's actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and
23 grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

24 **13. Eleventh Violation**

25 USPAP Standards Rule 2-2(a)(viii) requires the content of an appraisal report to be
26 consistent with the intended use of the appraisal and, at a minimum: (viii) summarize the
27 information analyzed, the appraisal methods and techniques employed, and the reasoning
28 that supports the analyses, opinions, and conclusions; exclusions of the sales comparison

1 approach, cost approach, or income approach must be explained. The appraiser must
2 provide sufficient information to enable the client and intended users to understand the
3 rationale for the opinions and conclusions, including reconciliation of the data and
4 approaches, in accordance with Standards Rule 1-6.

5 Respondent violated USPAP Standards Rule 2-2(a)(viii), as codified in NAC
6 645C.405(1), by failing to include a summary of the information analyzed, the methods and
7 techniques employed, and the reason that supports the analysis, opinions, and conclusions.
8 The appraisal report includes no evidence to adequately explain the exclusions of the
9 income approach. The Respondent's actions constitute unprofessional conduct pursuant to
10 NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
11 and/or (b).

12 14. Twelfth Violation

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

17 Respondent violated USPAP Standards Rule 2-2(a)(x), as codified in NAC
18 645C.405(1), by failing to include a discussion in the report or evidence in the work file as
19 to how the highest and best use was determined. The Respondent's actions constitute
20 unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action
21 pursuant to NRS 645C.460(1)(a) and/or (b).

22 15. Thirteenth Violation

23 USPAP Standards Rule 2-2(a)(xii) requires that the appraiser include a signed
24 certification in accordance with Standards Rule 2-3.

25 Respondent violated USPAP Standards Rule 2-2(a)(xii), as codified in NAC
26 645C.405(1), by failing to include a second certification for an amendments/second report,
27 as of January 29, 2019. The Respondent's actions constitute unprofessional conduct
28 pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS

1 645C.460(1)(a) and/or (b).

2 **ORDER**

3 IT IS HEREBY ORDERED that Respondent shall pay to the Division a total fine of
4 \$8,189.17. The total fine reflects a fine of \$5,000.00 for committing each of the above
5 thirteen violations of law, plus \$3,189.17 for hearing and investigative costs. Respondent
6 shall pay the total fine to the Division within one (1) year of the effective date of this Order.

7 IT IS FURTHER ORDERED that Respondent's Certified Residential Appraiser
8 License No. A.0205486-CR is hereby revoked, effective thirty (30) days from the date of this
9 Order pursuant to NRS 645C.520.

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

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

19 Pursuant to NRS 645C.520, this Order shall become effective 30 days from the date
20 of this Order, on the 9th day of November, 2020.

21 DATED this 9th day of October, 2020.

22 COMMISSION OF APPRAISERS OF REAL ESTATE
23 STATE OF NEVADA

24 By: 
25 President, Commission of Appraisers of Real Estate
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