

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 SERGIO TARDIO
(License No. A.0007555-CR),

11 Respondent.

Case No. 2017-868, AP17.031.S

**COMPLAINT AND NOTICE OF
HEARING**

FILED

AUG 14 2020

NEVADA COMMISSION OF APPRAISERS

Kelcy Valadey

12
13 State of Nevada, Department of Business and Industry, Real Estate Division (“the
14 Division”), by and through counsel, Attorney General AARON D. FORD and Deputy
15 Attorney General PETER K. KEEGAN, hereby notifies SERGIO TARDIO (“Respondent”)
16 of an administrative complaint and hearing which is to be held pursuant to Chapter 233B
17 and Chapter 645C of the Nevada Revised Statutes (“NRS”) and Chapter 645C of the
18 Nevada Administrative Code (“NAC”). The purpose of the hearing is to consider the
19 allegations stated below and to determine if the Respondent should be subject to a
20 disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated allegations
21 are proven at the hearing by the evidence presented.

22 **JURISDICTION**

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

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1 **PROCEDURAL HISTORY**

2 1. On or about April 18, 2017, the Division received a complaint/statement of
3 fact asserting that the Respondent completed a uniform residential appraisal report
4 ("Appraisal Report") which did not utilize current comparable sales.

5 2. The Division's initial investigation was completed on April 24, 2018 and
6 determined that there was insufficient evidence available to substantiate any violation of
7 NRS or NAC 645C or the Uniform Standards of Appraisal Practice ("USPAP").

8 3. On May 24, 2018, the Division mailed the Respondent a letter indicating
9 that Case No. 2017-868, AP 17.031.S had been closed, the letter also stated "The decision
10 to close this matter is made without prejudice. The Division reserves the right to reopen
11 its investigation should such action be warranted."

12 4. On July 19, 2018, the Division received an email from the complainant
13 requesting the Division re-investigate all the complaints he had filed with the Division
14 and included a copy of a letter from the Respondent to the complainant which alleged
15 damages and demanded restitution.

16 5. The Division commissioned a Standard 3 Review of the underlying appraisal
17 performed by the Respondent.

18 6. On July 31, 2018, the Division re-opened this case and the Respondent
19 requested that this matter be heard by the Appraisal Advisory Review Committee
20 ("AARC").

21 7. The case was initially scheduled for April 29, 2019, but the AARC ran out of
22 time to hear the case, which was then rescheduled for August 6, 2019.

23 8. At the August 6, 2019, AARC meeting, the Respondent requested that this
24 matter be heard by the Nevada Commission of Appraisers of Real Estate ("Commission").

25 **FACTUAL ALLEGATIONS**

26 1. The Respondent has been licensed by the Division as a Certified Residential
27 Appraiser, License No. A.0007555-CR since October 16, 2007.

28 2. The Respondent's Appraisal Report was prepared for a single-family

1 residence located at 3417 Perching Bird Lane, North Las Vegas, Nevada 89084, APN 124-
2 20-213-064 ("Property"), built in 2007.

3 3. The gross living area of the Property recorded as 2,207 sq. ft.

4 4. The assignment type is identified as "Purchase Transaction," and the
5 lender/client is identified as "Cross-country Mortgage, Inc."

6 5. The effective date of Respondent's Appraisal Report is identified as April 1,
7 2017, and the signature date is April 7, 2017.¹

8 6. The Respondent's Appraisal Report states the appraised value is
9 \$250,000.00.

10 7. The report included with the work file indicates a sale price of \$252,000.00,
11 which was changed by a supplemental addendum.

12 8. The complaint's attached appraisal indicates a sale price of \$259,000.00.

13 9. A copy of the appraisal with the \$259,000.00 sales prices was not included in
14 the work file.

15 10. The Respondent's Appraisal Report arrived at a Cost Approach value of
16 \$247,629.00.

17 11. The Cost Approach refers to a 1-story home in the Sunrise Mountain area,
18 whereas the Property is a 2-story home design.

19 12. The Standard 3 Reviewer indicated that Sunrise Mountain is not nearby the
20 subject property.

21 13. The Cost Approach indicates a site value of \$20,000.00.

22 14. The work file contains no site value supporting information, no extraction
23 method calculations, or evidence of other methods for estimating site value.

24 15. The Cost Approach reported the "as is" value of site improvements as
25 \$20,000.00.

26 16. The work file does not contain information as to the development or
27

28 ¹ The 2016-2017 edition of the Uniform Standards of Professional Appraisal Practice ("USPAP") is applicable here.

1 quantification of the site improvements.

2 17. The Cost Approach included external depreciation of \$2,094.00.

3 18. The work file does not contain evidence supporting an analysis and/or
4 calculation for external depreciation.

5 19. The work file does not contain evidence of analysis or reconciliation of the as-
6 is value of the site improvements.

7 20. The work file includes no analysis of available cost data to estimate the
8 difference between the cost new and the present worth of the improvements, to support
9 accrued depreciation.

10 21. The Respondent's Appraisal Report stated in several places that the market
11 has been stable since 2013.

12 22. The Standard 3 Reviewer's findings indicated the market is increasing at
13 16% per annum on a gross sales price basis, and 9 % per annum on a price per square foot
14 basis.

15 23. In utilizing the Respondent's search criteria, the reviewer identified 40
16 comparable sales within the defined market, whereas the Respondent's 1004MC indicated
17 only 12 sales occurred within the past twelve months.

18 24. The Respondent failed to adequately identify and analyze the market trends.

19 25. The appraisal report and work file do not contain evidence of any analysis,
20 including paired sales, statistical analysis, or supported cost data to support the
21 adjustment or non-adjustment of comparable sales.

22 26. The Respondent's work-file mentions the source of the cost data as the Blue
23 Book and local builder costs but contains no evidence of analysis or reconciliation of the
24 cost's sources.

25 27. The addendum fails to provide economic or market data support for the
26 claim that the Las Vegas market has been stable since October 2013.

27 28. The Standard 3 Reviewer's research indicated values in the market area
28 were increasing at a 16% per annum on gross sales prices basis and 9% per annum on a

1 price per square foot basis.

2 29. The Respondent omitted the quantifiable value increase in the Las Vegas
3 market over the prior twelve months.

4 30. The Standard 3 Reviewer determined the externality impact of the Property
5 backing to a freeway at 5.5%.

6 31. The Standard 3 Reviewer found that the Respondent failed to analyze two
7 similar freeway exposure externalities.

8 32. The Respondent made a series of errors by failing to make adjustments for
9 the seller paid concessions, contract date, bathroom count, and landscaping.

10 33. The Standard 3 Reviewer indicated that seller's concessions occurred in only
11 30% (12 of 40) of sales within the subject's market area with median sales concession
12 being 1.57%.

13 34. The Respondent reported 0 to 3.5%, noting adjustments are recognized over
14 that threshold.

15 35. The Respondent did not follow the scope of work, failing to fully analyze the
16 market, as evidenced by the lack of adjustments for market conditions/contract date,
17 concessions, bathroom count and landscaping.

18 36. The Respondent's work file does not contain evidence as to how the
19 adjustments were developed or quantified for location, site area, gross living area,
20 balcony, and pool, and therefore lacks credibility.

21 37. The Respondent's Appraisal Report noted in the Cost Approach section,
22 "[t]he Cost Approach is not considered reliable nor relevant," but the reconciliation
23 section noted "[g]reatest weight is given to the Sales Comparison Approach. The Cost
24 Approach supports the value."

25 38. The Appraisal Report failed to adequately describe the reasoning supporting
26 the analyses, opinions, and conclusions.

27 39. The highest and best use of the subject was reported as the current use, but
28 the Respondent failed to describe and support the rationale for the highest and best use.

1 40. On August 6, 2018, the Division sent the Respondent a certified letter
2 indicating it had re-opened its investigation in Case No. 2017-868, AP 17.031.S.

3 **VIOLATIONS OF LAW**

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

9 **First Violation**

10 The USPAP ETHICS RULE requires that an appraiser must not perform an
11 assignment in a grossly negligent manner.

12 Respondent violated the USPAP ETHICS RULE, as codified in NAC 645C.405(1),
13 by performing the assignment in a grossly negligent matter. The work file contains no
14 information as to how the adjustments or non-adjustments were developed or quantified.
15 The Respondent misstated the volume of sales in the Appraisal Report. The Respondent's
16 actions constitute unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for
17 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

18 **Second Violation**

19 The USPAP RECORD KEEPING RULE requires that an appraiser must prepare a
20 work file for each appraisal review assignment. The work file must be in existence prior to
21 the issuance of any report or other communication of assignment results. The work file
22 must include true copies of all written reports along with all other data, information, and
23 documentation necessary to support the appraiser's opinions and conclusions and to show
24 compliance with USPAP, or references to the location(s) of such other data, information,
25 and documentation.

26
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 The Respondent violated the USPAP RECORD KEEPING RULE, as codified in
2 NAC 645C.405(1), by failing to: (1) include a copy of the report with sales price of
3 \$259,000; (2) support the site value conclusion in the work file; (3) keep and maintain true
4 copies of all written reports, documented on any type of media and all other data,
5 information, and documentation necessary to support the appraiser's opinions and
6 conclusions, and to show compliance with USPAP, or references to the location(s) of such
7 other data, information or documentation; (4) fail to provide supporting information for
8 the comparable adjustments including age, bathroom count, gross living area ("GLA"),
9 size of site, and externality caused by adjacent freeway. The Respondent also failed to
10 include copies of the original Appraisal Report, amendment request, and purchase
11 contract. The Respondent's actions constitute unprofessional conduct, pursuant to NRS
12 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
13 (b).

14 **Third Violation**

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

18 The Respondent violated USPAP Standards Rule 1-1(a), as codified in NAC
19 645C.405(1), by failing to accurately report the market as increasing and failing to
20 support adjustments in the work file or appraisal report. This is unprofessional conduct
21 pursuant to NRS 645C.470(2) and grounds for disciplinary action, pursuant to Nevada
22 Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

23 **Fourth Violation**

24 USPAP Standards Rule 1-1(b) requires that in developing a real property
25 appraisal, an appraiser must: (b) not commit a substantial error or omission or
26 commission that significantly affects the appraisal.

27 The Respondent violated USPAP Standards Rule 1-1(b), as codified in NAC
28 645C.405(1), by making several errors in the appraisal including failing to accurately

1 report the externality impact of backing up to the freeway. This is unprofessional conduct
2 pursuant to NRS 645C.470(2) and grounds for disciplinary action, pursuant to Nevada
3 Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

4 **Fifth Violation**

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

9 The Respondent violated USPAP Standards Rule 1-1(c), as codified in NAC
10 645C.405(1), by using adjustments with no market support in the report or work file,
11 failing to make accurate adjustments for seller's concessions. The Respondent's actions
12 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for
13 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

14 **Sixth Violation**

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

18 The Respondent violated USPAP Standards Rule 1-2(h), as codified in NAC
19 645C.405(1), because the Respondent failed to fully analyze the market including: (1)
20 failing to adjust for market conditions; (2) support size of site adjustments; (3) support
21 GLA adjustments; (4) support lack of age adjustments; (5) support lack of bath count
22 adjustments; or (6) accurately analyze freeway externality impact. The Respondent's
23 actions constitute professional incompetence pursuant to NRS 645C.470(3) and grounds
24 for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

25 **Seventh Violation**

26 USPAP Standards Rule 1-3(a) requires an appraiser to identify and analyze the
27 effect on use and value of existing land use regulations, reasonable probable modification
28 of such land use regulations, economic supply and demand, the physical adaptability of

1 real estate, and market area trends.

2 The Respondent violated USPAP Standards Rule 1-3(a), as codified in NAC
3 645C.405(1), because the Respondent failed to accurately identify and analyze market
4 trends. The Respondent's actions constitute professional incompetence pursuant to NRS
5 645C.470

6 **Eighth Violation**

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

12 Respondent violated USPAP Standards Rule 1-4(a), as codified in NAC
13 645C.405(1), with failing to analyze sales similar freeway backing externality and by
14 reporting 12 comparable sales when there were many more. 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 **Ninth Violation**

18 USPAP Standards Rule 1-4(b) states that in developing a real property appraisal,
19 an appraiser must 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 an opinion of site value by an appropriate appraisal method or
22 technique.

23 Respondent violated USPAP Standards Rule 1-4(b)(i), as codified in NAC
24 645C.405(1), by failing to discuss or explain the site value development in the report and
25 to develop support in the work file for the site value estimate. The Respondent's actions
26 constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for
27 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

28 ...

1 **Tenth Violation**

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

5 Respondent violated USPAP Standards Rule 2-1(a), as codified in NAC
6 645C.405(1), because the Respondent failed to make adjustments for (1) comparable
7 seller concessions; (2) market conditions; (3) size of site; (4) GLA; (5) age; (6) bath count;
8 or (7) freeway externality impact. 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 **Eleventh Violation**

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

20 Respondent violated USPAP Standards Rule 2-2(a)(viii), as codified in NAC
21 645C.405(1), by failing to describe reasoning that supports the analyses, opinions, and
22 conclusions. The Respondent's actions constitute unprofessional conduct pursuant to NRS
23 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
24 (b).

25 **Twelfth Violation**

26 USPAP Standards Rule 2-2(a)(x) requires when an opinion of highest and best use
27 was developed by the appraiser, it must describe the support and rationale for that
28 opinion.

1 Respondent violated USPAP Standards Rule 2-2(a)(x), as codified in NAC
2 645C.405(1), by failing to include a discussion in the report or evidence in the work file as
3 to how the highest and best use was determined. 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 **DISCIPLINE AUTHORIZED**

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

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

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

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

22 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
23 for September 15th, 16th, and 17th, 2020, beginning at approximately 9:00 a.m.
24 each day, or until such time as the Commission concludes its business.

25 If the Governor's Emergency Directive 006 – suspending physical location
26 requirements is extended through the date of the meeting, then the hearing will
27 be held via teleconference and video conference. The Commission uses WebEx
28 for its meetings. To join the hearing go to the website Webex.com and put in the

1 **Meeting ID and Password:**

2 **Tuesday, September 15, 2020 - Meeting Number (Access Code): 146 304 7451**
3 **Meeting Password: UmGC5pNkR58 (86425765 from phones and video systems)**

4 **Wednesday, September 16, 2020 - Meeting Number (Access Code): 146 321 9396**
5 **Meeting Password: 2MfdNmnBJ28 (26336662 from phones and video systems)**

6 **Thursday, September 17, 2020 - Meeting Number (Access Code): 146 950 3290**
7 **Meeting Password: HxamcwTN379 (49262986 from phones and video systems)**

8 **If you do not have internet access, you may attend by phone at (844) 621-**
9 **3956. Some mobile devices may ask attendees to enter a numeric meeting**
10 **password provided above.**

11 **If Emergency Directive 006 is not extended and the meeting is held in**
12 **person, then the meeting will be located at the following locations:**

13 **Nevada State Business Center**
14 **Real Estate Division**
15 **3300 West Sahara Avenue, Suite 350**
16 **Las Vegas, Nevada 89102**

17 **If you would like an email containing this information, before the hearing,**
18 **please contact Kelly Valadez, Commission Coordinator, at (702) 486-4606 or**
19 **kvaladez@red.nv.gov.**

20 **STACKED CALENDAR: Your hearing is one of several hearings that may**
21 **be scheduled at the same time as part of a regular meeting of the Commission**
22 **that is expected to take place on September 15-17, 2020. Thus, your hearing may**
23 **be continued until later in the day or from day to day. It is your responsibility**
24 **to be present when your case is called. If you are not present when your case is**
25 **called, a default may be entered against you, and the Commission may decide**
26 **the case as if all allegations in the complaint were true. If you need to negotiate**
27 **a more specific time for your hearing in advance, because of coordination with**
28 **out of state witnesses or the like, please call Kelly Valadez, Commission**
Coordinator, at (702) 486-4606.

1 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
2 open meeting under Nevada's open meeting Law (OML) and may be attended by the
3 public. After the evidence and arguments, the Commission may conduct a closed meeting
4 to discuss your alleged misconduct or professional competence. You are entitled to a copy
5 of the transcript of the open and closed portions of the meeting, although you must pay for
6 the transcription.

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

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

19
20 DATED the 14 day of Augustth 2020.

DATED the 12th day of August 2020.

21
22 NEVADA REAL ESTATE DIVISION

AARON D. FORD
Attorney General

23
24 By: 

By: 

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