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BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE STATE OF NEVADA

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

COMPLAINT AND NOTICE OF

HEARING

Case No. 2020-246, AP20.033.S

Petitioner.

VS.

ADRIENNE L. WAGNER (License No. A.0207156-CR),

Respondent.

FILED

MAR 2 1 2022

NEVADA COMMISSION OF APPRAISERS

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State of Nevada, Department of Business and Industry, Real Estate Division ("the Division"), by and through counsel, Attorney General AARON D. FORD and Deputy Attorney General Louis V. Csoka, hereby notifies ADRIENNE L. WAGNER ("Respondent") of an administrative complaint and hearing which is to be held pursuant to Chapter 233B and Chapter 645C of the Nevada Revised Statutes ("NRS") and Chapter 645C of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if the Respondent should be subject to a disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated allegations are proven at the hearing by the evidence presented.

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JURISDICTION

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

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PROCEDURAL HISTORY

- 1. On or about March 10, 2020, the Division received a complaint/statement of fact from Andrew Swenson and Jill McBride (collectively, the "Complainant"), asserting that the Respondent completed a uniform residential appraisal report ("Appraisal Report"), which had improperly undervalued a home that Complainant was attempting to refinance.
- 2. The Division commissioned a Standard 3 Review of the underlying appraisal performed by the Respondent.
- 3. On August 17, 2021, the Appraisal Advisory Review Committee ("AARC") held a meeting relative to the Complaint, finding that Complaint was meritorious and that the Respondent had committed a series of violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").
- 4. On August 19, 2021, based on Respondent's stated desire to resolve the matter, the Division sent a Stipulation for Settlement of Disciplinary Action to Respondent (the "Stipulated Agreement"), to terminate the Complaint matter.
- 5. In response, the Respondent stated that she now just wanted to place her license on "inactive status."
- 6. On September 16, 2021, the Division sent a follow-up letter to Respondent, in which it noted that "placing your current Appraisal License in an inactive status was not one of the options discussed during the AARC meeting [Since] you did not return the signed [S]tipulated [A]greement . . . , this case will now be forwarded to the Nevada Commission of Appraisers of Real Estate . . . [("Commission")]."
- 7. On September 23, 2021, Respondent wrote that she was "leaving this profession, ie [sic] inactivate my license . . . [But, if the state [sic] of Nevada foolishly refuses my request, then I will do whatever I need to do to deal with you."
- 8. Accordingly, the Division requested that this matter be heard by the Commission.

¹ Emphasis added.

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FACTUAL ALLEGATIONS

- 1. The Respondent is licensed by the Division as a Certified Residential Appraiser, License No. A.0207156-CR.
- 2. The Respondent's Appraisal Report was prepared for a single-family residence located at 2804 Via Tazzoli Court, Henderson, Nevada 89052, APN 191-01-119-010 ("Property").
 - 3. The gross living area of the Property recorded as 4,230 square feet.
- 4. The assignment type is identified as "Refinance Transaction," and the lender/client is identified as "Navy Federal Credit Union."
- 5. The effective date of Respondent's Appraisal Report is identified as January 14, 2020, and the signature date is the same.²
- 6. The Respondent's Appraisal Report states the appraised value is \$ 783,000.00.
 - 7. Respondent's Appraisal Report, however, is deficient in several respects.
- 8. For example, in her appraisal, the Respondent failed to recognize the business model of the subject builder developer as to the entire transaction, i.e., building a specific and unique contemporary custom home on a lot acquired through a related land sale from that developer.
- 9. Specifically, the Respondent failed to properly identify the market segment, as a semi-custom contemporary custom home.
- 10. In Southern Nevada, a contemporary home buyer specifically seeks out that style of property, with such homes often being sold at a premium.
- 11. In her analysis, the Respondent also failed to account the differences between "contemporary" and "Mediterranean" homes, differences which are clearly differentiated by the market.
 - 12. For example, in the sales grid section of Respondent's data entries, none of

² The 2016-2017 edition of the Uniform Standards of Professional Appraisal Practice ("USPAP") is applicable here.

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the comparable homes utilized for her analysis are the requisite "contemporary" homes, but, instead, are all older "Mediterranean" style properties.

- 13. Additionally, even as to such older homes there is no style or age adjustment whatsoever relative to the style and condition of the property.
- 14. Respondent also failed to adjust in her analysis for gross living areas of up to 415 square feet.
- 15. In fact, in Respondent's analysis, no comparable homes had any gross living area adjustments.
- 16. Respondent also made no adjustments as the relative size of the property sites.
- 17. In particular, Respondent did not adjust for lot size differences of up to one hundred percent (100%).
- 18. Respondent also failed to fully analyze and report the prior land sale of the subject site or its impact on the entire transaction, which required the owner to use the specific custom home builder.
- Although claiming in her Appraisal Report that "cash sales" "likely have no 19. appraisals," Respondent did not further look into and consider "cash sales" or provide supporting data for her stated assumption.
- While claiming in her Appraisal Report that "no land sales currently 20. available," Respondent could have readily found twenty eight (28) land sales for single family residence in the specifically defined market for the prior twelve (12) months, i.e., prior to the date of valuation.
- 21. Even though site value was readily available, the Respondent failed to develop the site value and, instead, utilized an arbitrary land to improvement ratio of twenty four percent (24%).
- 22. Respondent's adjustment for a golf-view home in the amount of \$19,000.00 is also not credible, in so far as it did not utilize an adequate sample size.
 - 23. Respondent's cost data is also incongruent and dated.

- 24. For example, Respondent's work file indicates December 2018 as the date of the cost data, which makes such data over one (1) year old at the time of the appraisal.
- 25. While in the work file cost data is described as "very good" quality, in Respondent's Appraisal Report it is described as "excellent quality."
 - 26. Therefore, Respondent's cost information is likely understated.
- 27. Even though statistical analysis is referenced as having been performed, there was no statistical analysis found in the work file whatsoever.
- 28. The Respondent's Appraisal Report also does not address the "quality and quantity" of data available.
- 29. In summary, the Respondent failed to appropriately summarize the information analyzed and the reasoning that supports her analysis, opinions, and conclusions, including a requisite reconciliation of the data and approaches utilized.

VIOLATIONS OF LAW

The Respondent failed to prepare the appraisal report for the Property in Compliance with the Standards of the Appraisal Foundation. These Standards are published in the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation, as authorized by Congress, and adopted in Nevada by NAC 645C.400.3

First Violation

The USPAP RECORD KEEPING RULE requires that an appraiser must prepare a work file for each appraisal review assignment. The work file must be in existence prior to the issuance of any report or other communication of assignment results. The work file must include true copies of all written reports along with 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.

³ The 2016-2017 edition of USPAP, effective January 1, 2016 through December 31, 2017, is applicable to and utilized for this Complaint.

The Respondent violated USPAP RECORD KEEPING RULE by providing no information in her work file regarding the development of any adjustments or lack thereof, asserting the existence of statistical analysis where there is none to be found, and claiming that "cash sales" "likely have no appraisals" without any supporting data.

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

Second Violation

The USPAP COMPETENCY RULE requires that 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.

The Respondent violated USPAP COMPETENCY RULE by failing to recognize the business model of the subject builder developer as to the entire transaction, i.e., building a specific and unique contemporary custom home on a lot acquired through a related land sale from that developer -i.e., by failing to properly identify the market segment, as a semi-custom contemporary custom home; by claiming in her Appraisal Report that "no land sales currently available," while Respondent could have readily found twenty eight (28) land sales for single family residence in the specifically defined market for the prior twelve (12) months, i.e., prior to the date of valuation; by making an adjustment for a golf-view home in the amount of \$19,000.00 is also not credible, in so far as it did not utilize an adequate sample size; and by referencing that "statistical analysis is sometimes used in determining adjustment," while not making any such adjustments whatsoever.

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

Third Violation

The USPAP SCOPE OF WORK RULE requires that for each appraisal and

appraisal review assignment, an appraiser must: (1) identify the problem to be solved; (2) determine and perform the scope of work necessary to develop credible assignment results; and (3) disclose the scope of work in the report. An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.

Respondent violated the USPAP SCOPE OF WORK RULE by failing to properly identify the market segment, as a semi-custom contemporary custom home, whereas in Southern Nevada, a contemporary home buyer specifically seeks out that style of property, with such homes often being sold at a premium; by failing to account the differences between "contemporary" and "Mediterranean" homes, differences which are clearly differentiated by the market, whereby, within the sales grid section of Respondent's data entries, none of the comparable homes utilized for her analysis are the requisite "contemporary" homes, but are all older "Mediterranean" style properties, making her work lack credibility.

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

Fourth Violation

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

The Respondent violated USPAP Standards Rule 1-1(a), as codified in NAC 645C.405(1), by failing to recognize the specific market for properties most similar to the subject, i.e., semi-custom contemporary custom homes.

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

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Fifth Violation

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

The Respondent violated USPAP Standards Rule 1-1(b), as codified in NAC 645C.405(1), by failing to recognize the market segment, as a semi-custom contemporary custom home, whereas in Southern Nevada, a contemporary home buyer specifically seeks out that style of property, with such homes often being sold at a premium

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

Sixth Violation

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

The Respondent violated USPAP Standards Rule 1-1(c), as codified in NAC 645C.405(1), by performing her appraisal in a "grossly negligent" manner for the reasons already stated above, including by failing to acknowledge the market recognized differences between "contemporary" and "Mediterranean" homes, by utilizing older homes with no age adjustment, by failing to adjust for gross living area differences of up to 415 square feet, with no such adjustment whatsoever, by claiming that "cash sales" "likely have no appraisal"; by making inappropriate adjustment relative to "golf view."

The Respondent's actions constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Seventh Violation

USPAP Standards Rule 1-2(h) requires an appraiser to determine the scope of work

necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.

Respondent violated USPAP Standards Rule 1-2(h) by failing to properly identify the distinct market segment of semi-custom contemporary homes, with the scope of work and work file not evidencing that the Respondent recognizes the uniqueness of this type of real estate (while the market certainly does), and with the Respondent using older "Mediterranean" style properties for her comparables instead, thereby producing results that lack credibility.

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

Eighth Violation

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

Respondent violated USPAP Standards Rule 1-4(a), by failing to account the differences between "contemporary" and "Mediterranean" homes, differences which are clearly differentiated by the market. For example, in the sales grid section of Respondent's data entries, none of the comparable homes utilized for her analysis are the requisite "contemporary" homes, but, instead, are all older "Mediterranean" style properties without any adjustment for such a difference.

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

Ninth Violation

USPAP Standards Rule 1-4(b) states that in developing a real property appraisal,

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an appraiser must collect, verify, and analyze all information necessary for credible assignment results. When a cost approach is necessary for credible assignment results, an appraiser must: (i) develop an opinion of site value by an appropriate appraisal method or technique.

In violation of USPAP Standards Rule 1-4(b), the site value is not developed and has been derived from an arbitrary land to improvement ratio of twenty four percent (24%). Yet, as already noted above, while the site value date is readily available, it has not been analyzed or utilized.

Additionally, Respondent's cost data is also incongruent and dated. For example, Respondent's work file indicates December 2018 as the date of the cost data, which makes such data over one (1) year old at the time of the appraisal. While in the work file cost data is described as "very good" quality, in Respondent's Appraisal Report it is described as "excellent quality." Therefore, Respondent's cost information is likely understated.

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

Tenth Violation

USPAP Standards Rule 1-6(a) and (b) states that, in developing a real property appraisal, an appraiser must (a) reconcile the quality and quantity of data available and analyzed within the approaches used; and (b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusions.

Respondent violated USPAP Standards Rule 1-6(a), as codified in NAC 645C.405(1), as Respondent failed to address the "quality and quantity" of date in her Appraisal Report.

The Respondent's actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

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Eleventh Violation

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

The Appraisal Report is misleading and Respondent violated USPAP Standards Rule 2-1(a), failing to consider similar contemporary homes in her analysis, by utilizing older homes without adjusting for age, by failing to adjust in her analysis for gross living areas of up to 415 square feet. In fact, in Respondent's analysis, no comparable homes had any gross living area adjustments.

Respondent also made no adjustments as the relative size of the property sites. In particular, Respondent did not adjust for lot size differences of up to one hundred percent (100%). Additionally, although claiming in her Appraisal Report that "cash sales" "likely have no appraisals," Respondent did not further look into and consider "cash sales" or provide supporting data for her stated assumption.

The Respondent's actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Twelfth Violation

USPAP Standards Rule 2-1(b) requires that each written or oral real property appraisal report must: (a) clearly and accurately set forth the appraisal in a manner that will not be misleading; (b) contain sufficient information to enable the intended user(s) of the appraisal to understand the report properly.

Respondent violated USPAP Standards Rule 2-1(b), as codified in NAC 645C.405(1), by not having the requisite clarity due to respondent's lack of understanding of the market for the specific type of contemporary home appraised.

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

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Thirteenth Violation

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

Respondent violated USPAP Standards Rule 2-2(a)(x), as codified in NAC 645C.405(1), by failing to summarize the information analyzed and the reasoning that supports the analysis, opinions, and conclusions, including reconciliation of the data and approaches.

The Respondent's actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

DISCIPLINE AUTHORIZED

- 1. Pursuant to NRS 645C.460(2), if grounds for disciplinary action against an appraiser are found to exist for unprofessional conduct, the Commission may revoke or suspend the certificate, place conditions upon the certificate, deny the renewal of his or her certificate, and/or impose a fine up to \$10,000.00 per violation. NRS 645C.480(1)(a) is identified as an additional act of unprofessional conduct.
- Additionally, under NRS Chapter 622.400, the Commission is authorized to impose the costs of the proceeding upon the Respondent, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on the Respondent.
- 3. Therefore, the Division requests the Commission to impose such discipline as it determines is appropriate under the circumstances and to award the Division its costs and attorney's fees for this proceeding.

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

THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for April 26th, 27th, and 28th, 2022, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes its business.

The meeting will be located at the following locations:

Nevada State Business Center Real Estate Division 3300 West Sahara Avenue 4th Floor, Tahoe Room Las Vegas, Nevada 89102 with Video Conferencing to:
Department of Business & Industry
1818 E. College Parkway
Suite 103
Carson City, Nevada 89706

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

STACKED CALENDAR: Your hearing is one of several hearings that may be scheduled at the same time as part of a regular meeting of the Commission that is expected to take place on April 26-28, 2022. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your case is called, a default may be entered against you, and the Commission may decide the case as if all allegations in the complaint were true. If you need to negotiate a more specific time for your hearing in advance, because of coordination with out of state witnesses or the like, please call Kelly Valadez, Commission Coordinator, at (702) 486-4606.

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

As the Respondent, you are specifically informed that you have the right to appear

and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

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

DATED the 18 day of March 2022.

DATED the 18th day of March 2022.

NEVADA REAL ESTATE DIVISION

Attorney General

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