

**NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE
MEETING
JULY 12, 2022 MINUTES**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING
JULY 12, 2022**

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Tahoe Room
Las Vegas, Nevada 89102

The meeting was called to order at 9:00 a.m.

1-A) Introduction of Commissioners in attendance

Scott Krueger, Timothy O'Brien, Larry Michael Gandy, John Wright, and Deputy Attorney General Asheesh Bhalla sitting as Commission Counsel.

1-B) Introduction of Division staff in attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Nick Lazzarino, Compliance Audit Investigator; Antonio Brown, Information and Education Officer; and Kelly Valadez, Commission Coordinator.

Deputy Attorney General Louis Csoka was present representing the Division.

2) Public Comment

None.

3-A) NRED v. Steven M. Ortega, for possible action

Case No. 2019-906 AP20.006.S

License No. A.0007017-CR (Active)

Parties Present

Deputy Attorney General Louis Csoka was present representing the Division.
Steven M. Ortega was present.

Preliminary Matters

Mr. Csoka asked for the Notice of Documents BS NRED 0001-NRED 0120 be admitted into evidence as State's Exhibit 1.

Mr. Ortega stated that he had no objection.

President Krueger stated that the Notice of Documents BS NRED 0001 – NRED 0120 are admitted.

Opening Statements

Ms. Csoka gave his opening statement.
Mr. Ortega gave his opening statement.

State's Witness

Nick Lazzarino testified.

Mr. Ortega cross-examined Mr. Lazzarino.

The Commission questioned Mr. Lazzarino.

Mr. Csoka stated that the State rests.

Mr. Ortega stated his case.

The Commission questioned Mr. Ortega.

Mr. Csoka cross-examined Mr. Ortega.

Mr. Csoka questioned Mr. Lazzarino as a rebuttal witness.

Mr. Ortega had no questions for Mr. Lazzarino.

The Commission questioned Mr. Lazzarino.

The witness was dismissed.

The Commission questioned Mr. Ortega.

Closing Statements

Mr. Csoka gave his closing statement.

Mr. Ortega gave his closing statement.

Commissioner Wright stated that there was a lack of data to support the adjustments and show how they were extracted, which makes it hard to know if the \$10,000 adjustment for solar or the \$15,000 for a gated community are reasonable. Commissioner Wright stated that USPAP requires adequate relevant data, but USPAP does not say what that level of data is other than what your peers would use. Commissioner Wright stated that there were violations of the certification and sales history having a simple statement but no analysis.

Commissioner Gandy stated that he agrees with Commissioner Wright that some items in the report were lightly touched on with shortened sentences but unfortunately not following the true definition of analysis.

President Krueger stated that this report should have had much more detail and agrees that the report lacked the support for the adjustments.

Commissioner Wright stated that he has a concern that the Standard 3 review was done by someone who is not present to testify, and the investigation was done by someone who is no longer with the Division, and the Commission is being asked to consider comparables that should or should not have been used stated by the reviewer who is not here to defend the review.

President Krueger stated that there was no evidence presented from the reviewer's side of why the sales that were used were inappropriate or why other sales should have been used.

Commissioner O'Brien stated that he agrees with the comments being stated, because new construction is difficult requiring additional validation and data sets. Commissioner O'Brien stated that there was a lack of support, and there are questions that do not have an answer such as: why the solar and landscaping improvements did not increase the value by much, the market is stable but the most recent sales were used, and should the respondent have used sales not inside the gate. Commissioner O'Brien stated that with new construction, an analysis of the prior sale is important and key to indicating the market value.

Factual Allegations

President Krueger moved that the factual allegations 1– 6 have been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read factual allegation 7 into the record.

President Krueger stated that it has not been proven that there were significant errors.

President Krueger moved that factual allegation 7 has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read factual allegation 8 into the record.

President Krueger stated that there was a lack of support in the work file for the adjustments.

President Krueger moved that factual allegation 8 has been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read factual allegation 9 into the record.

Commissioner O'Brien stated that the respondent did include two sales, but the question is whether the two sales were the most comparable.

Commissioner Gandy stated that without the reviewer here to testify why other comparables were better, it is hard to discern why the two sales used were not the best comparable sales.

President Krueger moved that factual allegation 9 has not been proven. Seconded by Commissioner O'Brien. Motion carried.

President Krueger read factual allegation 10 into the record.

Commissioner Wright stated that the statement of the tenth allegation is true, but it could be questionable if it is a violation of USPAP.

Commissioner O'Brien stated that the appraiser completed a1004-MC that is part of the appraisal and the work file and as a result it must be explained and supported.

Commissioner O'Brien moved that factual allegation 10 has been proven. Seconded by Commissioner Gandy. Motion carried.

President Krueger read factual allegation 11 into the record.

Commissioner O'Brien stated that the legal use is stated but the report does not contain any information regarding alternative uses, if any.

President Krueger moved that factual allegation 11 has been proven. Seconded by Commissioner Gandy. Motion carried.

President Krueger read factual allegation 12 into the record.

Commissioner O'Brien moved that factual allegation 12 has been proven. Seconded by Commissioner Wright. Motion carried 3-1 with President Krueger opposed.

President Krueger read factual allegation 13 into the record.

Commissioner Wright moved that factual allegation 13 has been proven. Seconded by Commissioner

Gandy. Motion carried.

President Krueger read factual allegation 14 into the record.

Commissioner Wright stated that the respondent indicated that he did derive the adjustments from market data even though there was data to back it up, but there was no evidence presented otherwise.

Commissioner O'Brien stated that on BS 00059 there is a statement in the report by the appraiser stating how he derived the adjustments, and there has been no testimony provided that shows that statement to be incorrect.

Commissioner O'Brien moved that factual allegation 14 has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read factual allegation 15 into the record.

Commissioner Wright stated that the appraiser did note in the report that when the prior sale occurred, the property did not have backyard landscaping or solar.

Commissioner O'Brien stated that the appraiser's comments of no backyard landscaping and no solar was in a rebuttal to the Division, which would have been important to include in the report. Commissioner O'Brien stated that even though he provided the statement, but the analysis was done inappropriately.

Commissioner O'Brien moved that factual allegation 15 has been proven. Seconded by Commissioner Gandy. Motion carried.

President Krueger read factual allegation 16 into the record.

Commissioner O'Brien moved that factual allegation 16 has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read factual allegation 17 into the record.

Commissioner Gandy stated that the respondent admitted to this allegation in his testimony.

Commissioner Gandy moved that factual allegation 17 has been proven. Seconded by Commissioner Wright. Motion carried.

Violations of Law

President Krueger read the first violation of law regarding the Record Keeping Rule into the record.

Commissioner O'Brien stated that there are details regarding certain adjustments not in the work file which makes this a violation.

Commissioner Wright stated that he agrees there is a huge violation of the record keeping rule.

Commissioner O'Brien moved that the first violation of law has been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the second violation of law regarding the Scope of Work Rule into the record.

Commissioner Wright stated that the scope of work rule states that the appraiser must identify the appraisal problem and the parameters of the data that will be analyzed to produce credible results, and there is no requirement in USPAP to explain why an appraiser did not include a certain piece of data.

Commissioner O'Brien stated that the State has not proven that the two sales that were not included are equally comparable.

Commissioner O'Brien moved that the second violation of law has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the third violation of law regarding Standards Rule 1-1(a) into the record.

Commissioner O'Brien stated that the population of the 1004MC with just MLS data, especially with new construction, was not enough of a data. Commissioner O'Brien stated that if using the 1004MC the correct data set needs to be pulled and pulling a full data set would have cleaned this issue up or triggered a flag for additional commentary.

Commissioner O'Brien moved that the third violation of law has been proven. Seconded by Commissioner Gandy. Motion carried.

President Krueger read the fourth violation of law regarding Standards Rule 1-3(b) into the record.

Commissioner O'Brien stated that the respondent has stated highest and best use, but the four test were not fully applied and summarized in the appraisal report.

Commissioner O'Brien moved that the fourth violation of law has been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the fifth violation of law regarding Standards Rule 1-4(a) into the record.

Commissioner O'Brien stated that two-thirds of this violation has not been proven.

Commissioner Wright stated that he agreed and the one part of the violation that has been proven was covered under the first violation.

Commissioner O'Brien moved that the fifth violation of law has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the sixth violation of law regarding Standards Rule 1-5(b) into the record.

President Krueger moved that the sixth violation of law has been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the seventh violation of law regarding Standards Rule 2-1(a) and (b) into the record.

Commissioner O'Brien stated that the preponderance of issues in the seventh violation have not been proven.

Commissioner O'Brien moved that the seventh violation of law has not been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the eighth violation of law regarding Standards Rule 2-2(a)(iii) into the record.

Commissioner O'Brien moved that the eighth violation has been proven. Seconded by Commissioner Wright. Motion carried.

President Krueger read the ninth violation of law regarding Standards Rule 2-2(a)(viii) into the record. Commissioner O'Brien moved that the ninth violation of law has not been proven. Seconded by Commissioner Gandy. Motion carried.

President Krueger read the tenth violation of law regarding Standards Rule 2-2(a)(x) into the record.

Commissioner Wright moved that the tenth violation of law has been proven. Seconded by Commissioner O'Brien. Motion carried.

President Krueger read the eleventh violation of law regarding Standards Rule 2-2(a)(xii) into the record.

President Krueger moved that the eleventh violation of law has been proven. Seconded by Commissioner O'Brien. Motion carried.

President Krueger read the twelfth violation of law regarding Standards Rule 2-3 into the record.

President Krueger moved that the twelfth violation of law has been proven. Seconded by Commissioner O'Brien. Motion carried.

Division's Recommendation for Discipline

Nick Lazzarino presented:

- \$600 per violation plus the Division's fees and costs in the amount of \$5,579.38
- Not less than 15-hour Residential Market Analysis and Highest and Best Use course
- Not less than 7-hours How to Support and Prove Your Adjustments course
- Not less than 4-hours Appraiser Self-Protection: Documentation and Record Keeping course
- Not less than 15-hours USPAP course
- Not less than 15-hours Residential Sales Report Writing and Case Analysis course and pass the test

For a total of not less than 56 hours of continuing education to be completed within two years of the Appraisal Commission President signing the stipulated agreement. None of the above continuing education will count toward license renewal. Within one year of the recommended education being completed, the respondent will submit one month of appraisal logs to the Division for random appraisal reports to be selected for USPAP compliance for a one-time review unless issues are found. If issues are found more reports can be requested.

Commissioner Wright moved that for the case of NRED v. Steven M. Ortega case number 2019-906 AP20.006.S the respondent complete the education recommended by the Division excluding the 15-hour USPAP class for a total of not less than 41-hours of education to be completed within 2 years of the effective date of the order, none of the education can be used for license renewal and pay the Division's fees and costs in the amount of \$5,579.38, payable within three years of the effective date of the order. Within one year of the completed education, the respondent will submit one month of appraisal logs to the Division for review of USPAP compliance. Seconded by Commissioner O'Brien. Motion carried.

4-A) Discussion and possible action regarding Appraisal Advisory Review Committee informal conference recommendations:

NRED v. Jarrod Emick, for possible action

Case No. 2020-392 AP20.040.S

License No. A.0208127-RES (Active)

Parties Present

Jarrold Emick was not present.

Nick Lazzarino, Compliance Audit Investigator, was present.

Mr. Lazzarino read the Committee report into the record.

President Krueger moved to approve the stipulation for settlement of disciplinary action for Jarrod Emick, case number 2020-392 AP20.040.S. Seconded by Commissioner Wright. Motion carried.

4-B) Discussion and possible action regarding Appraisal Advisory Review Committee informal conference recommendations:

NRED v. Ronald L. James, for possible action

Case No. 2020-664 AP21.008.S

License No. A.0003842-CG (Active)

Parties Present

Ronald James was not present.

Nick Lazzarino, Compliance Audit Investigator, was present.

Mr. Lazzarino read the Committee report into the record.

President Krueger moved to approve the stipulation for settlement of disciplinary action for Ronald James, case number 2020-664 AP21.008.S. Seconded by Commissioner O'Brien. Motion carried.

4-C) Discussion and possible action regarding Appraisal Advisory Review Committee informal conference recommendations:

NRED v. Brian Christie, for possible action

Case No. 2020-311 AP20.035.S

License No. A.0003038-CR (Active)

Parties Present

Brian Christie was not present.

Nick Lazzarino, Compliance Audit Investigator, was present.

Mr. Lazzarino read the Committee report into the record.

President Krueger moved to approve the stipulation for settlement of disciplinary action for Brian Christie, case number 2020-311 AP20.035.S. Seconded by Commissioner Wright. Motion carried.

4-D) Discussion and possible action regarding Appraisal Advisory Review Committee informal conference recommendations:

NRED v. Martha Miller York, for possible action

Case Nos. 2020-783 AP21.011.N, 2020-790 AP21.013.N, and 2020-830 AP21.014.N

License No. A.0006205-CR (Active)

Parties Present

Martha Miller York was present virtually via Webex.

Nick Lazzarino, Compliance Audit Investigator, was present.

Mr. Lazzarino read the Committee report into the record.

President Krueger moved to approve the settlement of disciplinary action for Martha Miller York, case numbers 2020-783 AP21.011.N, 2020-790 AP21.013.N, and 2020-830 AP21.014.N. Seconded by Commissioner O'Brien. Motion carried.

5-A) Discussion regarding the Administrator's Report on Division updates.

Mr. Chandra stated that Jaye Lindsay is no longer with the Division. Mr. Chandra stated that Ms. Lindsay did a great job with the Division, but with her departure, the Division needs to reset and evaluate the Appraisal Program and its processes and then begin recruitment for an Appraisal Program Manager. Mr. Chandra stated that the Division is in the final stages of choosing a vendor for upgrading to new software technology and once the new software is in place, it will facilitate a smoother and more seamless licensing process.

5-B) Discussion regarding the Disciplinary Report.

Shareece Bates presented this report. The Commission was provided with the report in the meeting packet.

5-C) Discussion regarding the Appraisal Officer's Report on compliance case load.

Nick Lazzarino presented this report.

5-D) Discussion and action to approve the minutes of the April 26-27, 2022 meetings.

President Krueger moved to approve the minutes from the April 26-27, 2022 meetings. Seconded by Commissioner O'Brien. Motion carried.

5-E) Discussion and action to approve the application for the Appraisal Advisory Review Committee member pursuant to NAC 645C.600.

1. George Holmes – License No. A.0006387-RES

Commissioner O'Brien moved to approve the application. Seconded by Commissioner Wright. Motion carried.

5-F) Discussion and action to nominate and elect officers for FY23 pursuant to NAC 645C.200.

President Krueger moved to nominate Commissioner O'Brien for President. Seconded by Commissioner Wright. Motion carried.

President Krueger moved to nominate Commissioner Wright for Vice President. Seconded by Commissioner O'Brien. Motion carried.

Commissioner Gandy moved to nominate Commissioner Ivey for Secretary. Seconded by Commissioner Wright. Motion carried.

6) Discussion and decision on date, time, place and agenda items for upcoming meeting(s).

- October 18-20, 2022

7) Public Comment

Commissioner John Wright stated that he is thankful for all the time and effort Jaye Lindsay put into assisting the appraisal industry for the State of Nevada because she has been a great resource for people for many years and Ms. Lindsay will be sorely missed.

8) ADJOURNMENT

The meeting adjourned at 1:58 p.m.

Minutes Prepared by: Kelly Valadez
Kelly Valadez, Commission Coordinator