

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 KAY J. DESPOSATO,
11 (License No. A.0205605-CR),

12 Respondent.

Case No. 2021-773

**STIPULATION AND ORDER FOR
SETTLEMENT OF DISCIPLINARY
ACTION**

FILED

JAN 23 2025

NEVADA COMMISSION OF APPRAISERS
M. Gallo

13 This Stipulation and Order for Settlement of Disciplinary Action (the "Stipulation")
14 is entered into by and between the State of Nevada, Department of Business and
15 Industry, Real Estate Division ("the Division"), through its Administrator Sharath
16 Chandra ("Petitioner"), by and through their attorney of record, Phil W. Su, Senior
17 Deputy Attorney General, and Respondent Kay J. Desposato, ("RESPONDENT"), by and
18 through her attorney of record, Janeen Isaacson, Esq.

19 The RESPONDENT, at all relevant times mentioned in the Complaint, was
20 licensed by the Division as a Certified Residential Appraiser (License No. A.0205605-CR)
21 and, therefore, is subject to the Jurisdiction of the Division and the Commission and the
22 provisions of NRS 645C and NAC Chapter 645C. By availing herself of the benefits and
23 protections of the laws of the State of Nevada, the Respondent has submitted to the
24 jurisdiction of the Division.

25 **SUMMARY OF PROCEDURAL AND FACTUAL ALLEGATIONS**

26 The Complaint filed by the Division alleges the following Procedural and Factual
27 Allegations against RESPONDENT:

28 **PROCEDURAL HISTORY**

1 1. On July 26, 2021, the Division received a complaint/statement of fact from
2 Complainant Carlon Burt asserting that RESPONDENT Kay J. Desposato’s appraisal
3 report (hereinafter “Appraisal Report”) of Burt’s property at 12668 New Providence St.,
4 Las Vegas, NV 89141, (“the Property”) improperly ignored amenities on the Property and
5 unfairly drew incorrect adjustments from comparables, effectively lowering the appraised
6 value of the Property.¹ [NRED 0002-0005; 0185].

7 2. On or about August 4, 2021, the RESPONDENT provided a response to the
8 Division’s investigation initiated based on the Complaint. [NRED 0084-0085].

9 3. On August 5, 2021, the RESPONDENT provided her work file on the
10 Property. [NRED 0047-0141].

11 4. On August 29, 2023, the Division commissioned a Standard 3 Review of the
12 RESPONDENT’s Appraisal Report, which was completed on October 27, 2023. [NRED
13 0143-0183].

14 5. Following the investigation and Standard 3 Review, the investigator
15 recommended the case be heard by the Appraisal Advisory Review Committee (“AARC”).
16 [NRED 0185-0194].

17 6. Following hearing before the AARC, the AARC unanimously voted to
18 remand the case to the Commission of Appraisers of Real Estate. [NRED 0195].

19 **FACTUAL ALLEGATIONS AS ALLEGED IN COMPLAINT 2021-775**

20 7. The RESPONDENT prepared an Appraisal Report for a 3,069 sq. ft., one-
21 story, 4 br/4 bath single family residence, built in 2017 and located at 12668 New
22 Providence St., Las Vegas, NV 89141, APN # 191-08-313-18 (the “Property”). [NRED
23

24 ¹ One of Complainant Burt’s primary allegations was that the appraised value reached by
25 RESPONDENT demonstrated racial bias; he termed his complaint an “Appraisal
26 Discrimination Claim” and provided links to news articles regarding systematic racial
27 discrimination in the appraisal industry. [NRED 0003-0005]. As noted in the Standard 3
28 Review commissioned by the Division, under the section discussing Ethics Rule entitled
“Reviewer’s Comments regarding complaint/bias,” the reviewer noted that “while there
are multiple USPAP errors... there was no verbiage in the report, or documentation in
the work file, implying violations were due to bias, which would be related to the Conduct
portion of the Ethics rule.” [NRED 0147-0149].

1 0006-0042; 0049-0083].

2 8. The Appraisal Report indicated assignment type as "Refinance Transaction,"
3 Lender/Client as UBS Bank USA, and indicated a value conclusion of \$750,000.00 by
4 Sales Comparison Approach. [NRED 0049-0050].

5 9. The effective date of the report was indicated as July 6, 2021, and the date of
6 signature of the report was July 11, 2021. [NRED 0054].

7 10. The sales grid listed six (6) comparable sales with adjusted sale prices
8 ranging from \$734,450.00 to \$788,700.00. [NRED 0050; 0055].

9 11. The Appraisal Report was completed on Fannie Mae form 1004/7 for a
10 mortgage finance transaction, and, accordingly, is subject to Fannie Mae guidelines,
11 which become part of the Report's scope of work when completed with the 1004/70 form.
12 [NRED 0052-0054; 0150].

13 12. Neither the work file or the Appraisal Report provide any data, information
14 or documentation to support Certification #9 of the Fannie Mae Form, which states "I
15 have reported adjustments to the comparable sales that reflect the market's reaction to
16 the differences between the subject and property and the comparable sales." [NRED 0053;
17 0150].

18 13. The sales grid contained numerous adjustments, including: electronic gated
19 subdivision v. non-gated subdivision (\$5,000), inconsistent lot size adjustments (ranging
20 from \$0.53 to \$1.15 per sq ft), age (\$1,000 per year), number of bedrooms (\$5,000),
21 number of baths (\$2,500 for half bath & \$5,000 for full bath), gla (\$50 per sf), garage
22 capacity (\$5,000), fireplace (\$1,000), pool (\$20,000) and spa (\$5,000). [NRED 0050-0055;
23 0150].

24 14. Site value adjustments were not consistent and ranging from \$0.86 per sq ft
25 (Comp #1) to \$1.15 per sq ft (Comps 3 & #5). [NRED 0050; 0055; 0153].

26 15. Page 2 of the addendum to the Appraisal Report states: "The paired sales
27 technique was utilized in determining market reaction" and, on the same page,
28 Comparable Search Data/Parameters Section sentence number six, states "All

1 adjustments made for comparable dissimilarities are market derived according to FNMA
2 guidelines. Comparable adjustments are made as warranted when market research
3 deems verifiable, justifiable and credible.” [NRED 0058].

4 16. However, no paired sales analysis data was found in the work file. [NRED
5 0150].

6 17. Comp 1 was the most recent comp sale and very similar to the subject
7 (similar condition, age, gla, lot size, same builder/quality of construction) and located on
8 the same street, but was inferior to the Property because it lacks a pool and the gla
9 differential from the subject is large enough to result in an upward size adjustment,
10 which would presumably warrant an upward adjustment to the Property’s appraised
11 value (for size and pool) above Comp 1’s unadjusted sales price. [NRED 0050; 0054; 0154].

12 18. Instead, the concluded value of the Property was below Comp 1’s unadjusted
13 sales price. [NRED 0050; 0054; 0154].

14 19. The Standard 3 Review noted several minor errors in the appraisal report
15 and/or work file that it opined, when taken as a whole, impact credibility of the report:

16 a. The special assessment on page one should have been noted as \$684,
17 instead of \$342.15, based on the semiannual payments of the special
18 assessment. [NRED 0049; 0093; 0162].

19 b. The Appraisal Report appears to only include the public record sketch,
20 rather than measurements taken at the actual property as required by
21 Fannie Mae guidelines. [NRED 0094; 0162].

22 c. The listed effective age (2 years) is inconsistent with the four-year-old
23 Property. [NRED 0049; 0162].

24 d. Lack of discussion that the Property was in a master planned community
25 with guard gate and golf course, consisting of a mixture of tract and
26 custom homes, instead simply stating that the Property was located in a
27 PUD. [NRED 0049; 0162].

28 e. The sales to price ratios listed in the 1004MC are inconsistent with the 2%

1 downward adjustment for comps #5 and #6. [NRED 0060; 0162].

2 20. The Standard 3 Review opined that a lack of data in the work file to support
3 land value or dwelling costs in the cost approach, indicating that the scope of work
4 necessary to develop cost approach was not completed. [NRED 0165].

5 21. There was no summary in the Appraisal Report of the scope of work used to
6 develop the appraisal; specifically, to support adjustments made in the sales grid, and no
7 paired sales analysis. [NRED 0176].

8 22. There was no summary in the Appraisal Report of the scope of work used to
9 develop the comp selection. [NRED 0176].

10 23. There was no summary in the Appraisal Report of the scope of work used to
11 analyze market conditions despite conflicting information in the Appraisal Report.
12 [NRED 0176].

13 24. Following the hearing before the AARC, the AARC unanimously voted to
14 remand the case to the Commission of Appraisers of Real Estate and the Division
15 assigned the matter to its assigned attorney general for prosecution. [NRED 0195].

16 **SUMMARY OF ALLEGED VIOLATIONS OF LAW**

17 **AS ALLEGED IN COMPLAINT 2021-775**

18 The Complaint filed by the Division alleges that RESPONDENT committed the
19 following violations of law:

20 1. RESPONDENT violated the USPAP ETHICS RULE, as codified in NAC
21 645C.405(1), by stating in scope of work that she performed paired sales analysis, when
22 that analysis was not actually performed and/or supported in the work file. Accordingly,
23 the stated scope of work was intentionally misleading.

24 2. RESPONDENT violated the USPAP RECORD KEEPING RULE, as codified
25 in NAC 645C.405(1), by failing to provide any data regarding paired sales analysis and by
26 utilizing numerous small adjustments, implying that the adjustments were automatically
27 based on arbitrary amounts.

28 3. RESPONDENT violated the USPAP COMPETENCY RULE, as codified in

1 NAC 645C.405(1), by failing to provide any data regarding paired sales analysis; by
2 providing inconsistent data in the site value adjustment; and by providing no data to
3 support land value, dwelling costs, physical depreciation, and functional depreciation in
4 the cost approach.

5 4. RESPONDENT violated the USPAP SCOPE OF WORK RULE, as codified
6 in NAC 645C.405(1), by failing to provide any data regarding paired sales analysis; by
7 providing inconsistent data in the site value adjustment; and by failing to provide
8 adequate information in the 1004MC to support the stated market condition trends.

9 5. RESPONDENT violated Standards Rule 1-1(a) by including numerous
10 adjustments not supported by the work file; and by failing to provide necessary
11 information in the 1004MC grid and radius search to produce a credible appraisal and
12 adequate data results.

13 6. RESPONDENT violated Standards Rule 1-1(c) by committing several minor
14 errors that, as a whole, impacted the credibility of the appraisal report.

15 7. RESPONDENT violated Standards Rule 1-2(h) by failing to provide any data
16 regarding paired sales analysis and by providing inconsistent site value adjustments; by
17 relying on comps taken from different market areas and targeting different buyers; and
18 by failing to provide adequate information in the 1004MC to support the stated market
19 condition trends.

20 8. RESPONDENT violated Standards Rule 1-4(a) by failing to provide any data
21 indicating the adjustments were extracted from the market (e.g. by paired sales analysis);
22 and by failing to provide data to support land value or dwelling costs in the cost approach.

23 9. RESPONDENT violated Standards Rule 1-6(a) by failing to consider market
24 conditions when reconciling value, even if quantifiable adjustments were not made,
25 because the most recent sale and contracted comps had prices above the older comps used
26 (comps #2 through #4).

27 10. The RESPONDENT violated Standards Rule 2-1(a) by failing to provide any
28 data indicating the adjustments were extracted from the market (e.g. by paired sales

1 analysis) and by utilizing numerous small adjustments, implying that the adjustments
2 were automatically based on arbitrary amounts.

3 11. RESPONDENT violated Standards Rule 2-1(b) by failing to include market
4 derived adjustments; and by failing to consistently apply market condition adjustments to
5 the sales grid.

6 12. RESPONDENT violated Standards Rule 2-1(a)(viii) by failing to summarize
7 the scope of work used to develop the appraisal; the scope of work utilized to develop the
8 comp selection; and the scope of work utilized to analyze market conditions.

9 13. RESPONDENT violated Standards Rule 2-2(a)(x) by failing to provide
10 explanation and support for adjustments, including lack of market condition adjustments
11 considered on a quantitative or qualitative basis.

12 **PROPOSED SETTLEMENT AGREEMENT**

13 By entering into this Stipulation, the RESPONDENT does not admit the above
14 factual and legal allegations and is prepared to vigorously defend against same.
15 Nevertheless, in an effort to avoid the time and expense of litigating these issues before
16 the Commission, as well as any possible further legal appeals from any such decision, the
17 parties desire to compromise and settle the instant controversy upon the following terms
18 and conditions:

19 1. RESPONDENT agrees to pay the Division a total amount of EIGHT
20 THOUSAND TWO HUNDRED EIGHTY SEVEN DOLLARS and 41/100 cents (\$8,287.41)
21 ("Amount Due"), consisting of THREE THOUSAND TWO HUNDRED FIFTY DOLLARS
22 AND NO CENTS (\$3,250.00) in administrative fines imposed by the Division; the
23 Division's pre-hearing attorney's fees in the amount of THREE THOUSAND NINE
24 HUNDRED FIFTY SEVEN DOLLARS and 41/100 cents (\$3,957.41), and investigative
25 costs incurred in the total amount of ONE THOUSAND EIGHTY DOLLARS and no cents
26 (\$1,080.00).

27 2. The Amount Due shall be payable to the Division in thirty-six (36) monthly
28 payments, consisting of thirty five installments of TWO HUNDRED THIRTY DOLLARS

1 and 21/100 CENTS (\$230.21), and a final payment of TWO HUNDRED THIRTY
2 DOLLARS AND 06/100 CENTS (\$230.06). The first installment payment will be due
3 thirty (30) days after entry of the Order approving this Settlement Stipulation. Lump
4 sums can be made in pre-payment with no penalties.

5 3. RESPONDENT, who has already voluntarily moved her Nevada Real Estate
6 Appraisal License A.0205605-CR into inactive status, hereby agrees that she will not file
7 to reactivate her inactive Appraisal License for a period of five (5) years from the effective
8 date of the Order approving this Settlement Stipulation. If RESPONDENT thereafter
9 wishes to reactivate her Appraisal License A.0205605-CR, she agrees that she must first
10 petition to appear before this Commission at its next regularly scheduled public meeting
11 for prior approval.

12 4. RESPONDENT and the Division agree that once this Agreement is approved
13 and fully performed, the Division will close its file in this matter and the Division agrees
14 not to pursue any other or greater remedies or fines in connection with RESPONDENT
15 alleged conduct referenced herein. The Division further agrees that unless
16 RESPONDENT fails to make timely payment, the Division will not bring any claim or
17 cause directly or indirectly based upon any of the facts, circumstances, or allegations
18 discovered during the Division's investigation and prosecution of this case.

19 5. RESPONDENT agrees and understands that by entering into this
20 Stipulation, RESPONDENT is waiving her right to a hearing in each matter at which
21 RESPONDENT may present evidence in her defense, her right to a written decision on
22 the merits of the complaint, her rights to reconsideration and/or rehearing, appeal and/or
23 judicial review, and all other rights which may be accorded by the Nevada Administrative
24 Procedure Act, the Nevada Real Estate Appraisers statutes and accompanying
25 regulations, and the federal and state Constitutions.

26 6. RESPONDENT understands that this Agreement and other documentation
27 may be subject to public records laws. The Commission members who review this matter
28 for approval of this Stipulation may be the same members who ultimately hear, consider,

1 and decide the Complaints if this Stipulation is either not approved by the Commission or
2 is not timely performed by RESPONDENT.

3 7. RESPONDENT fully understands that she has the right to be represented
4 by legal counsel in these matters at her own expense.

5 8. Each party shall bear their own attorney's fees and costs, except as provided
6 above.

7 9. Approval of Stipulation. Once executed, this Stipulation will be filed with the
8 Commission and will be placed on the agenda for approval at its next public meeting. The
9 Division will recommend to the Commission approval of the Stipulation. RESPONDENT
10 agrees that the Commission may approve, reject, or suggest amendments to this
11 Stipulation that must be accepted or rejected by RESPONDENT before any amendment
12 is effective.

13 10. Withdrawal of Stipulation. If the Commission rejects this Stipulation or
14 suggests amendments unacceptable to RESPONDENT, RESPONDENT may withdraw
15 from this Stipulation, and the Division may pursue its Complaint before the Commission.
16 This Stipulation then shall become null and void and unenforceable in any manner
17 against either party.

18 11. Release. In consideration of the execution of this Stipulation,
19 RESPONDENT for herself, her heirs, executors, administrators, successors, and assigns,
20 hereby releases, remises, and forever discharges the State of Nevada, the Department of
21 Business and Industry, and the Division, and each of their respective members, agents,
22 employees, and counsel in their individual and representative capacities, from any and all
23 manner of actions, causes of action, suits, debts, judgments, executions, claims, and
24 demands whatsoever, known and unknown, in law or equity, that RESPONDENT ever
25 had, now has, may have, or claim to have against any or all of the persons or entities
26 named in this section, arising out of or by reason of the Division's investigations, these
27 disciplinary actions, and all other matters relating thereto.

28 12. Indemnification. RESPONDENT hereby agrees to indemnify and hold

1 harmless the State of Nevada, the Department of Business and Industry, Petitioner, the
2 Division, and each of their respective members, agents, employees, and counsel, in their
3 individual and representative capacities, against any and all claims, suits, and actions
4 brought against said persons and/or entities by reason of the Division's investigations,
5 these disciplinary actions, and all other matters relating thereto, and against any and all
6 expenses, damages, and costs, including court costs and attorney fees, which may be
7 sustained by the persons and/or entities named in this section as a result of said claims,
8 suits, and actions.

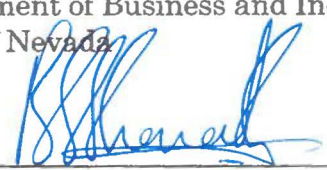
9 13. Default. In the event of default under this Stipulation, RESPONDENT
10 agrees that her license shall be immediately suspended, and the unpaid balance of the
11 administrative fine and costs, together with any attorneys' fees and costs that may have
12 been assessed, shall be due in full to the Division within ten calendar days of the date of
13 default. Debt collection actions for unpaid monetary assessments in this case may be
14 instituted by the Division or its assignee.

15 14. RESPONDENT has signed and dated this Stipulation only after reading and
16 understanding all terms herein.

17 IT IS SO STIPULATED.

18 Dated: January, 17, 2025.

19 NEVADA REAL ESTATE DIVISION
20 Department of Business and Industry
21 State of Nevada

22 By: 
23 SHARATH CHANDRA, Administrator
24 3300 West Sahara Avenue, Suite 350
25 Las Vegas, Nevada 89102

26 Dated: January, 17, 2025.

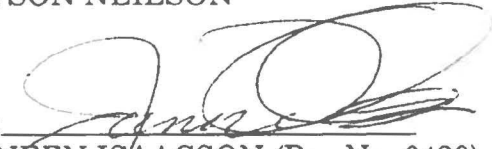
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28 KAY J. DESPOSATO,
(License No. A.0205605-CR),

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Approved as to form:

LIPSON NEILSON

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Attorneys for Real Estate Division

ORDER

IT IS ORDERED that the foregoing Stipulation for Settlement of Disciplinary Action, submitted by Petitioner and Respondent, is approved in full.

Dated: this 23rd day of January, 2025.

COMMISSION OF APPRAISERS OF REAL ESTATE

By: 
President, Commission of Appraisers of Real Estate

Submitted by:

AARON D. FORD
Attorney General

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