

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
9 Petitioner,

10 vs.

11 KEITH T. KAVULA,
12 (License No. A.0007139-CR- INACTIVE),

13 Respondent.

Case No. 2022-427

**COMPLAINT AND NOTICE OF
HEARING**

FILED

DEC 19 2024

NEVADA COMMISSION OF APPRAISERS
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14 State of Nevada, Department of Business and Industry, Real Estate Division ("the
15 Division"), by and through counsel, Attorney General AARON D. FORD and Senior
16 Deputy Attorney General Phil W. Su, hereby notifies KEITH T. KAVULA ("Respondent")
17 of an administrative complaint and hearing which is to be held pursuant to Chapter 233B
18 and Chapter 645C of the Nevada Revised Statutes ("NRS") and Chapter 645C of the
19 Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the
20 allegations stated below and to determine if the Respondent should be subject to a
21 disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated allegations
22 are proven at the hearing by the evidence presented.

23 **JURISDICTION**

24 The Respondent is a Certified Residential Appraiser licensed by the Division,
25 License No. A.0007139-CR (inactive as of January 16, 2024), and therefore is subject to
26 the Jurisdiction of the Division and the provisions of NRS and NAC Chapter 645C. By
27 availing himself of the benefits and protections of the laws of the State of Nevada, the
28 Respondent has submitted to the jurisdiction of the Division.

FACTUAL ALLEGATIONS

1. On June 28, 2022, the Division received a complaint from Complainant Valerie McClain, VP Compliance of ClearCapital.com, Inc., asserting that RESPONDENT KEITH T. KAVULA's appraisal report (hereinafter "Subject Appraisal Report") of the real property at 3006 Scalise Ct., Las Vegas, NV 89141, ("the Subject Property"), indicated physical characteristics different than those indicated on the MLS. [NRED0001-0003; 0004-0081].

2. On June 28, 2022, the Division's investigator, Nick Lazzarino, issued an open investigation letter for Case No. 2022-427, via certified mail to RESPONDENT at his address of record, concerning the Subject Appraisal Report and instructing him to provide his response and entire workfile and documentation to the Division by July 14, 2022. [NRED0150-0152].

3. On July 25, 2022, RESPONDENT emailed the Division with response to the Complaint and "Documents in file for subject property." [NRED0148-0149; 0082-0157].

4. On August 11, 2022, Administration Section Manager Shareece Bates sent an acknowledgement of receipt of the documentation sent by RESPONDENT in July, informed him that Investigator Lazzarino was no longer with the Division, and indicated that the Division would contact RESPONDENT if/when anything further was needed. [NRED0148].

5. RESPONDENT prepared an Exterior-Only Inspection Residential Appraisal Report for a single-family home located at 3006 Scalise Ct., Las Vegas, NV 89141, APN # 177-32-317-004. [NRED0010-0031].

6. The Appraisal Report was generated on "Fannie Mae Form 2055 March 2005," indicated assignment type as "Other/Asset Management," a 02/09/2022 effective date of report, and indicated an appraised value of \$375,000.00 by Sales Comparison Approach. [NRED0011-0015].

7. The Subject Appraisal Report and workfile failed to provide data, information, or documentation indicating how adjustments and lot value were

1 determined. [NRED0162; 0011-0021; NRED0083-0157].

2 8. The Subject Appraisal Report and workfile failed to include data,
3 information, or documentation to support Certification #9 of the Fannie Mae Form,
4 regarding reporting adjustments to comparable sales that reflect the market's reaction to
5 differences between the subject property and comparable sales. [NRED0162; 0011-0021;
6 NRED0083-0157].

7 9. The Subject Appraisal Report and workfile failed to provide data,
8 information, or documentation indicating how particular comparables were determined,
9 e.g. why more applicable comps were used, compared to those outside of market area.
10 [NRED0162; 0011-0021; NRED0083-0157].

11 10. The Subject Appraisal Report and workfile failed to provide consistent data
12 regarding market conditions, including, but not limited to, referring to Zillow general zip
13 code information and other unreliable information to determine market conditions.
14 [NRED0162; 0011-0021; NRED0083-0157].

15 11. The Subject Appraisal Report and workfile failed to provide sufficient
16 reference to, and description of, the Subject Property's interior physical condition and the
17 presence of leased solar panels, and the workfile omitted corresponding interior photos
18 contained in the MLS listing (which was otherwise included in the workfile). [NRED0162;
19 0011-0021; NRED0083-0157].

20 12. In an undated Addendum, RESPONDENT submitted a two-page rebuttal to
21 an April 15, 2022, letter that alleged material deficiencies in the RESPONDENT'S
22 Appraisal Report, including potential violations of USPAP Standard Rules 2-2(a)(x) and
23 2-2(a)(iv). [NRED0105-0106].

24 13. There is no documentation that RESPONDENT issued a revised Appraisal
25 Report after submitting his two-page rebuttal Addendum to the April 15, 2022, letter.

26 14. On February 14, 2024, the Division commissioned a Standard 3 Review of
27 RESPONDENT'S Appraisal Report, which was completed on March 24, 2024.
28 [NRED0159-0220].

15. On or about November 25, 2024, Division Appraisal Investigator James Silva sent RESPONDENT an NRS 233B letter, via certified mail, indicating that the Division has obtained sufficient information to commence disciplinary action against him and intended to do so by filing a formal complaint with the Commission of Appraisers of Real Estate. [NRED0241-0244].

VIOLATIONS OF LAW

RESPONDENT failed to prepare the Subject Appraisal Report for the Subject Property in Compliance with the Standards of the Appraisal Foundation and the law. The 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(1).

First Violation

RESPONDENT violated USPAP ETHICS RULE by stating a scope of work that was not actually performed (i.e. not supported in the workfile) regarding adjustments and site value opinion, which is intentionally misleading; and/or by making adjustments in the sales grid without data in the appraisal report or workfile to indicate that the adjustments were extracted from the market (i.e. no paired sales analysis), leading to arbitrary adjustments.

RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Second Violation

RESPONDENT violated USPAP RECORD KEEPING RULE because his workfile lacked data to indicate that his adjustments were extracted from the market (i.e. no paired sales analysis), leading to arbitrary adjustments; by failing to include data, information, or documentation to support Certification #9 of the Fannie Mae Form; and/or by failing to submit a revised report following his rebuttal letter to the April 15, 2022, review letter.

1 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
2 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
3 pursuant to NRS 645C.460(1)(a) and/or (b).

4 **Third Violation**

5 RESPONDENT violated USPAP COMPETENCY RULE by failing to provide data
6 in the report or workfile to demonstrate report's adjustments were extracted from the
7 market (i.e. no paired sales analysis), or otherwise based on market data; by failing to
8 calculate market conditions based on reliable sources; by failing to use truly comparable
9 sales data (e.g. relying upon comparables outside of subject property's market
10 area/master plan); and/or by failing to provide data to support land value.

11 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
12 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
13 pursuant to NRS 645C.460(1)(a) and/or (b).

14 **Fourth Violation**

15 RESPONDENT violated USPAP SCOPE OF WORK RULE by failing to properly
16 identify and analyze the Subject Property's physical condition and the presence of a solar
17 panel lease, or to analyze the impact of physical condition upon value; by failing to
18 provide adjustments based on market data; and/or by failing to consider market
19 conditions based on reliable sources and calculations.

20 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
21 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
22 pursuant to NRS 645C.460(1)(a) and/or (b).

23 **Fifth Violation**

24 RESPONDENT violated USPAP Standards Rule 1-1(a) by failing to provide data in
25 the report or workfile to demonstrate report's adjustments were extracted from the
26 market (i.e. no paired sales analysis), or otherwise based on market data; and/or by
27 failing to use truly comparable sales data (e.g. relying upon comparables outside of
28 subject property's market area/master plan).

RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Sixth Violation

RESPONDENT violated USPAP Standards Rule 1-1(b) by failing to properly identify and analyze the Subject Property's physical condition and the presence of a solar panel lease, or to analyze the impact of physical condition upon value.

RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Seventh Violation

RESPONDENT violated USPAP Standards Rule 1-1(c) 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, including, but not limited to: failing to properly indicate the property's list price as of the effective date of the report or to provide an explanation for the discrepancy; and/or by providing incoherent and/or inconsistent verbiage in multiple areas of the Subject Report.

RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

Eighth Violation

RESPONDENT violated USPAP Standards Rule 1-2(e)(i) by failing to properly identify and analyze the Subject Property's physical condition and the presence of a solar panel lease.

RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

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1 **Ninth Violation**

2 RESPONDENT violated USPAP Standards Rule 1-2(h) by failing to determine the
3 scope of work necessary to produce credible assignment results as indicated above under
4 the Fourth Violation.

5 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
6 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
7 pursuant to NRS 645C.460(1)(a) and/or (b).

8 **Tenth Violation**

9 RESPONDENT violated USPAP Standards Rule 1-4(a) by failing to provide data in
10 the report or workfile to demonstrate report's adjustments were extracted from the
11 market (i.e. no paired sales analysis), or otherwise based on market data; and/or by
12 failing to calculate market conditions based on reliable sources.

13 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
14 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
15 pursuant to NRS 645C.460(1)(a) and/or (b).

16 **Eleventh Violation**

17 RESPONDENT violated USPAP Standards Rule 1-5(a) by failing to properly
18 indicate the property's list price as of the effective date of the report or to provide an
19 explanation for the discrepancy.

20 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
21 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
22 action pursuant to NRS 645C.460(1)(a) and/or (b).

23 **Twelfth Violation**

24 RESPONDENT violated USPAP Standards Rule 2-1(a) by stating a scope of work
25 that was not actually performed (i.e. not supported in the workfile) regarding adjustments
26 and site value opinion, which is intentionally misleading; and/or by making adjustments
27 in the sales grid without data in the appraisal report or workfile to indicate that the
28 adjustments were extracted from the market (i.e. no paired sales analysis), leading to

1 arbitrary adjustments.

2 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
3 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
4 action pursuant to NRS 645C.460(1)(a) and/or (b).

5 **Thirteenth Violation**

6 RESPONDENT violated USPAP Standards Rule 2-1(b) by failing to provide data in
7 the report or workfile to demonstrate report's adjustments were extracted from the
8 market (i.e. no paired sales analysis), or otherwise based on market data; and/or by
9 failing to calculate market conditions based on reliable sources.

10 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
11 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
12 action pursuant to NRS 645C.460(1)(a) and/or (b).

13 **Fourteenth Violation**

14 RESPONDENT violated USPAP Standards Rule 2-1(a)(iv) by failing to properly
15 identify and analyze the Subject Property's physical condition and the presence of a solar
16 panel lease and the impact of physical condition upon value.

17 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
18 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
19 pursuant to NRS 645C.460(1)(a) and/or (b).

20 **Fifteenth Violation**

21 RESPONDENT violated USPAP Standards Rule 2-2(a)(viii) by failing to properly
22 identify and analyze the Subject Property's physical condition and the presence of a solar
23 panel lease and the impact of physical condition upon value; by failing to provide data in
24 the report or workfile to demonstrate report's adjustments were extracted from the
25 market (i.e. no paired sales analysis), or otherwise based on market data; by failing to
26 calculate market conditions based on reliable sources; and/or by failing to use truly
27 comparable sales data (e.g. relying upon comparables outside of subject property's market
28 area/master plan).

1 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
2 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
3 pursuant to NRS 645C.460(1)(a) and/or (b).

4 **Sixteenth Violation**

5 RESPONDENT violated USPAP Standards Rule 2-2(a)(x) by failing to properly
6 identify and analyze the Subject Property's physical condition and the presence of a solar
7 panel lease and the impact of physical condition upon value; by failing to provide data in
8 the report or workfile to demonstrate report's adjustments were extracted from the
9 market (i.e. no paired sales analysis), or otherwise based on market data; by failing to
10 calculate market conditions based on reliable sources; and/or by failing to use truly
11 comparable sales data (e.g. relying upon comparables outside of subject property's market
12 area/master plan).

13 RESPONDENT'S actions constitute unprofessional conduct pursuant to NRS
14 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
15 pursuant to NRS 645C.460(1)(a) and/or (b).

16 **DISCIPLINE AUTHORIZED**

17 1. Pursuant to NRS 645C.460(2), if grounds for disciplinary action against an
18 appraiser are found to exist for unprofessional conduct, the Commission may revoke or
19 suspend the certificate, place conditions upon the certificate, deny the renewal of his or
20 her certificate, and/or impose a fine up to \$10,000.00 per violation.

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

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

27 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider this
28 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 January 21-23, 2025, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes its business. The Commission meeting will be held at the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room 4th Floor, Las Vegas, Nevada 89102, with video conference to: Department of Business & Industry, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89076.

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 January 21-23, 2025. 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 Maria Gallo, Commission Coordinator, at (702) 486-4074.

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

1 call witnesses and present evidence against you. You have the right to respond and to
2 present relevant evidence and argument on all issues involved. You have the right to call
3 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
4 matter relevant to the issues involved.

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

10 DATED the 18 day of December, 2024.

DATED the 19 day of December, 2024.

11
12 NEVADA REAL ESTATE DIVISION

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