FILED
JUN 11 2024
NEVADA COMMISSION OF APPRAISERS

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STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY REAL ESTATE DIVISION - APPRAISERS

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. THOMAS L. WITHERBY (License No. A.0001528-CR), Respondent.	Case No. 2020-492, AP21.045.S **MOTION TO MODIFY REVOCATION ORDER**

Thomas Witherby ("Mr. Witherby"), by and through his attorneys Lesley Miller and Ellsie Lucero of the law firm Kaempfer Crowell, moves for modification of the revocation of his expired Nevada appraiser's license and the $63,897.22 fine imposed in the Commission's October 10, 2023 Findings of Fact, Conclusions of Law and Order under NRS 233B.121(3).

POINTS AND AUTHORITIES

I. INTRODUCTION

Mr. Witherby moves for modification of the Commission's October 10, 2023 Order to ask the Commission to modify the revocation of his expired appraiser's license and $63,897.22 fine. Mr. Witherby does not dispute the Commission's authority to issue an order upon default against him under NRS 233B.131(3) Mr. Witherby simply asks for modification of the severity of the disciplinary action imposed pursuant to the Commission's discretion under 233B.131(3) .

II. FACTUAL BACKGROUND

A. The Underlying Complaint Does Not Indicate Any Intentional Act to Mislead or Fraud, Rather Inconsequential Errors.

The Division filed a complaint against Mr. Witherby on May 19, 2023 for case no. 2020-492, AP21.045.S alleging violations of his duties as an appraiser under NRS 645C. *See* Ex. 1, Complaint. The complaint alleges "[t]he Respondent's Appraisal Report appraised for $300,000 which was less than the Property sold for two years prior at $310,000." *Id.* at ¶ 13. Absent from the complaint is any allegation of harm as a result of the violations. *See generally id.* The appraisal report confirms the contract for the sale of the property was dated March 20, 2020 for a sale price of $300,000. Ex. 2, Appraisal Report at 1. (NRED ROA 018-24). Mr. Witherby's appraisal of the property was for $300,000 on March 31, 2020. *Id.* at 2. According to the appraisal report, "the intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction." *Id.* at 4. Therefore, the appraisal report did not cause

any harm to any party to the sale of the property and did not impact the sale price negatively.

B. The Administrative Proceeding

The complaint was set to be heard by the Commission at its meeting on July 18–20, 2023. In response to the Complaint, on May 30, 2023, Mr. Witherby represented to the Division that he had turned in his license in May 2021 and did not intend to reactivate it in Nevada. A few days prior, the Division had presented confidential settlement terms to Mr. Witherby which he rejected and contested the case against him, in writing.

As a result of the contested case proceeding, Mr. Witherby notified OREP, his errors and omissions insurance, of the pending case. On July 12, 2023, the Division subsequently sent Mr. Witherby the final agenda for the meeting. On July 13, 2023, Craig M. Capilla, national claims counsel for OREP insureds requested a continuance on Mr. Witherby's behalf because he was in the process of vetting the claims and assigning local counsel to represent him. The Division agreed to the continuance because it was the first request to continue.

On August 30, 2023, the Division sent a notice to Mr. Witherby for the October Commission meeting. Unfortunately for Mr. Witherby, about a week before the October hearing, he still had not heard from Mr. Capilla about local counsel for the hearing. Ex. 3, Witherby Decl. at ¶ 12. When Mr. Witherby followed up, Mr. Capilla responded that he was busy and forgot but that an attorney would call Mr. Witherby to help him. *Id.* at ¶ 13. The attorney Mr. Witherby spoke to advised that she could not prepare his case in one week and stated the only thing he could do was travel to Las Vegas, but Mr. Witherby could not attend in person due to the cost and

his father's deteriorating health at the time. *Id.* at ¶¶ 14–15. The attorney also strongly advised against appearing at the hearing remotely by calling in. *Id.* at ¶ 16. Based on this advice, Mr. Witherby did not appear remotely at the October 3, 2023 hearing.

C. The Commission's October 10, 2023 Order

The Commission entered a default against Mr. Witherby for his failure to appear at the October 3, 2023 hearing. In its October 10, 2023 written Order, the Commission revoked Mr. Witherby's appraiser license and imposed the maximum fine ($10,000) for each alleged violation in addition to costs for a total fine of $63,897.22. Ex. 4, October 10, 2023 Order. At the time of the October 3, 2023 hearing, Mr. Witherby's license had already been expired for over a year meaning he could not have reinstated it. *See* Ex. 5, Transcript at WIT00020:16–22.

III. ARGUMENT

A. The Commission Should Modify the Revocation of Mr. Witherby's Expired Appraiser's License and the $63,897.22 Fine In Its October 10, 2023 Order.

A party may move for modification of an agency's findings and decision under NRS NRS 233B.131(3) after the receipt of any additional evidence. Mr. Witherby asks that the Commission consider this request for modification of the severity of the disciplinary action imposed in the October 10, 2023 Order in light of the additional evidence provided in this motion.

1. The Deed Indicates That There Was No Harm to the Buyer.

The underlying complaint against Mr. Witherby alleges that "[t]he Respondent's Appraisal Report appraised for $300,000 which was less than the

Property sold for two years prior at $310,000." *See* Ex. 1, Complaint at ¶ 13. Absent from the complaint is any allegation of harm as a result of the violations. *See generally id.* Here, there is evidence in the form of the deed showing the sales price of the home was $300,000.00 which, when compared to the value in the appraisal report, shows there was no harm. *See* Ex. 6, Deed. The buyer purchased the house for $300,000 which was also the loan amount and what Mr. Witherby appraised the house for.

The deed also shows that the intended user, Madeline Elizabeth Carlson, of the report was not the person who actually filed the complaint against Mr. Witherby. It was her realtor, not the buyer/borrower. Here, the realtor had no harm from Witherby's actions. It wasn't her injury. Therefore, the appraisal report did not cause any harm to any party to the sale of the property.

B. Mr. Witherby has suffered significant harm as a result of the Commission's October 10, 2023 Order.

Mr. Witherby cannot be hired as a real estate appraiser in Florida, where he resides, nor can he pursue his livelihood in any of the 50 United States. The revocation of his already expired Nevada expired license is depriving him of his livelihood and ability to make a living. The Nevada revocation prevents him from being hired as an appraiser because the revocation has been recorded in the national database ASC.gov, which every lender checks prior to hiring an appraiser, preventing him from being hired as an appraiser. Additionally, Mr. Witherby has already been denied the ability to become an insurance adjuster in Florida due to the Nevada revocation. *See* Ex. 7, Notice of Denial.

Mr. Witherby will imminently suffer more harm because the Florida Real Estate Appraisal Board will soon revoke his Florida license based on the Nevada Revocation Order. *See* Ex. 8, Florida Admin. Complaint. In addition to this significant punishment, the Division is requiring a $63,897.22 fine. If Mr. Witherby is forced to pay this large fine, he will suffer financial harm as he cannot afford the fine, is close to retirement age, and only has his income as an appraiser to ensure he may retire. Further, this will devastate his credit while he is struggling financially without the ability to make a living as an appraiser or insurance adjuster. Therefore, Mr. Witherby has suffered significant harm and will imminently suffer further harm as result of the severity of the punishment in the Commission's October 10, 2023 Order.

Mr. Witherby asks for modification of the Commission's imposition of a $63,897.22 fine and reversal of the revocation of his already expired appraiser's license based on the Commission's discretion to impose a less severe punishment in light of the circumstances - lack of harm to the public as a result of the alleged violations in the Division's complaint and the significant harm Mr. Witherby has already suffered.

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IV. CONCLUSION

For the reasons set forth above, the Commission should modify the revocation of Mr. Witherby's expired Nevada appraiser's license and the $63,897.22 fine in the October 10, 2023 Order. Mr. Witherby respectfully requests that the Commission remove the revocation from his record and issue a lesser fine that Mr. Witherby may pay while he attempts to get back on his feet financially. In the least, Mr. Witherby requests that a payment plan be arranged.

DATED June 10, 2024.

KAEMPFER CROWELL



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1980 Festival Plaza Drive, Suite 650
Las Vegas, Nevada 89135

Attorneys for Thomas L. Witherby

CERTIFICATE OF SERVICE

I served the attached **MOTION TO MODIFY REVOCATION ORDER** by electronic mail and by placing a true copy of it in a sealed envelope with postage prepaid in the U.S. Mail addressed to:

CHARVEZ FOGER, Deputy
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Attorney for Appraisal Division

DATED July 11, 2024

s/Kimberly Rupe
Kimberly Rupe
An employee of Kaempfer Crowell

EXHIBIT INDEX

Exhibit 1	Complaint, dated May 19, 2023
Exhibit 2	Appraisal Report
Exhibit 3	Declaration of Thomas Witherby
Exhibit 4	Revocation Order, dated October 10, 2023
Exhibit 5	Transcript - APPR CARE Commission Meeting on October 3, 2023
Exhibit 6	Deed
Exhibit 7	Notice of Denial from State of Florida, dated November 27, 2023
Exhibit 8	Administrative Complaint by State of Florida, dated April 4, 2024

EXHIBIT 1

Complaint
dated May 19, 2023

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,

Petitioner,

vs.

THOMAS L. WITHERBY (License No. A.0001528-CR),

Respondent.

Case No. 2020-492, AP21.045.S

FILED

MAY 19 2023

NEVADA COMMISSION OF APPRAISERS

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COMPLAINT AND NOTICE OF HEARING

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 Christal Park Keegan, hereby notifies THOMAS L. WITHERBY ("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.

JURISDICTION

At all times relevant to this Complaint, the Respondent was 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 himself 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. The Division received a complaint alleging that the Respondent's Appraisal Report contained inaccuracies and omissions that negatively impacted the value of the Property. *0002 - 0056.*

2. The Division commissioned a Standard 3 Review of the underlying appraisal performed by the Respondent. *0335 - 0354.*

3. The Respondent requested his case to be heard by the Appraisal Advisory Review Committee ("AARC"). *0363.*

4. The Respondent did not appear at the May 24, 2022, AARC meeting, therefore, the Division determined that this matter should be heard by the Nevada Commission of Appraisers of Real Estate ("Commission"), now comes herewith. *0363.*

FACTUAL ALLEGATIONS

1. The Respondent's Nevada Certified Residential Appraiser, License No. A.0001528-CR, has been in closed, expired status for over a year as of March 31, 2022.

2. The Respondent prepared an Appraisal Report for 3183 Mura Del Prato, Henderson, Nevada 89044 ("Property"). *0057 – 0103.*

3. The Respondent's Appraisal Report represented use of linear regression modules to support the adjustments made in the sales grid but admitted lack of understanding of how to properly complete a linear regression. *0067.*

4. Further, the Respondent's Appraisal Report and workfile do not contain statistical analysis to support the adjustments made in the sales grid. *0057 – 0329.*

5. The Complainant alleged the Respondent failed to support adjustments made for upgraded features. *0002.*

6. The Respondent's Appraisal Report and workfile failed to support the $25,000 adjustment made to Comparable Sale #2's upgraded features. *0059.*

7. The Complainant alleged homes built by Toll Brothers are premium but the Respondent failed to note such benefit for Comparables #s 1-3 built by Toll Brothers. *0002.*

8. The Respondent's Appraisal Report did not make adjustments for differing builders when data indicates a resale townhome built by Toll Brothers commands a higher premium. *0059, 0064, and 0343.*

9. The Complainant alleged the RESPONDENT misrepresented Comparables #s 1, 3, 4, 5, and 6 as end-units and made no adjustments or comments about the impact of this feature. *0002.*

10. The Property is an end-unit townhome but the Respondent's Appraisal Report contained only one end-unit comparable, Comparable #2, with no adjustments made to the other non-end-unit comparables. *0059 and 0064.*

11. The Respondent's Appraisal Report and workfile provided no evidence to support the opinion that seller concessions do not affect pricing, even if under 3% of the sales price. *0067, and 0057 – 0329.*

12. The Respondent's Appraisal Report failed to report and analyze a prior sale of the Property that occurred within the prior three years despite such information publicly recorded. *0350.*

13. The Respondent's Appraisal Report appraised for $300,000 which was less than what the Property sold for two years prior at $310,000. *0350, and 0063.*

VIOLATIONS OF LAW

The Respondent failed to prepare the appraisal report for the 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

The USPAP RECORD KEEPING RULE requires an appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile must be in existence prior to the issuance of any report or other communication of assignment results. A written summary of an oral report must be added to the workfile within a

reasonable time after the issuance of the oral report. The workfile must include 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.

The Respondent violated USPAP RECORD KEEPING RULE by failing to include statistical analysis to support the adjustments made in the sales grid within the Appraisal Report or workfile.

The 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

USPAP Standards Rule 1-1(c) requires that an appraiser in developing a real property appraisal must (c) not render appraisal 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.

Respondent violated Standards Rule 1-1(c) by failing to contain documentation to support the $25,000 adjustment for Comparable #2's upgraded features.

Respondent further violated Standards Rule 1-1(c) by failing to adjust for differing builders in the Appraisal Report when Comparables #s 1, 2, and 3 are Toll Brother built units, and Comparables #s 4, 5, and 6 are KB Homes built units.

Respondent also violated Standards Rule 1-1(c) by failing to use more than just one end-unit comparable, Comparable #2, and failing to make adjustments to the other non-end-unit comparables, Comparables #s 1, 3, 4, 5, and 6.

The 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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Third Violation

USPAP Standards Rule 1-2(c) required an appraiser, in developing a real property appraisal, must (c) not render appraisal 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 Standards Rule 1-2(c) by failing to provide support for the opinion that seller concessions of 3% or less do not affect pricing and failing to update the boiler plate Definition of Value language stating "the seller pays these costs in virtually all sales transactions" which contradicted his opinion that there were seller concessions.

The 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).

Fourth Violation

USPAP Standards Rule 1-5(b) provides that when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business: (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

Respondent violated Standards Rule 1-5(b) by failing to report or analyze the publicly recorded prior sale of the Property which occurred June 21, 2018, for $310,000, less than two (2) years prior to the effective date of the Appraisal Report.

The 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).

Fifth Violation

USPAP Standards Rule 2-1(a) requires 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.

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In violation of Standards Rule 2-1(a), Respondent failed to change his Definition of Value to match his opinion that there were seller concessions, even if under 3% of the sale price.

Respondent also violated Standards Rule 2-1(a) when he made a series of errors which in their aggregate can mislead the intended user, specifically, when Respondent failed to support the $25,000 adjustment for Comparable #2's upgraded features; failed to adjust for differing builders; used only one end-unit comparable, Comparable #2, and failed to make adjustments to the other non-end-unit comparables.

The 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

USPAP Standards Rule 2-2(a)(x) requires each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report. (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum (x) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 by: (1) summarizing the appraisal methods and techniques employed; (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed; (3) summarizing the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5; [Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.]; (4) stating the value opinion(s) and conclusion(s); and (5) summarizing the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data and approaches.

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Respondent violated Standards Rule 2-2(a)(x) by failing to analyze the previous sale in the Appraisal Report.

The 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).

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.

2. Additionally, under NRS 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 July 18- 20, 2023, 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.

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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 July 18-20, 2023. 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 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

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evidence. Other important rights you have are listed in NRS Chapter 645C, NRS Chapter 233B, and NAC Chapter 645C.

DATED the 18 day of May, 2023.

NEVADA REAL ESTATE DIVISION

By: _____
SHARATH CHANDRA, Administrator
3300 W. Sahara Avenue, Suite 350
Las Vegas, Nevada 89102
Telephone: (702) 486-4033

DATED the 18th day of May, 2023.

AARON D. FORD
Attorney General

By: _____
CHRISTAL PARK KEEGAN, ESQ.
Deputy Attorney General
Bar No. 12725
5420 Kietzke Lane #202
Reno, Nevada 89511
Telephone: (775) 687-2141
Email: ckeegan@ag.nv.gov
Attorney for Real Estate Division

EXHIBIT 2

Appraisal Report

Appraisal Report

Uniform Residential Appraisal Report

20-284
File # 5722857

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

SUBJECT

Property Address 3183 Mura Del Prato Ave | City Henderson | State NV | Zip Code 89044
Borrower Madeline Elizabeth Carlson | Owner of Public Record Marc & Lucy Gelormini | County Clark
Legal Description Lot 117, Block 20, South Edge Inspirada Village 1 Pod 1 Phase 1, Plat Book 134, Page 7
Assessor's Parcel # 191-11-812-117 | Tax Year 2020 | R.E. Taxes $ 2,471
Neighborhood Name Inspirada | Map Reference Metro 95-D6 | Census Tract 0057.12
Occupant Owner Tenant X Vacant | Special Assessments $ 4,210 | X PUD | HOA $ 175 per year X per month
Property Rights Appraised X Fee Simple Leasehold Other (describe)
Assignment Type X Purchase Transaction Refinance Transaction Other (describe)
Lender/Client Academy Mortgage Corporation | Address 339 W 13490 S , Draper , UT 84020
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? X Yes No
Report data source(s) used, offering price(s), and date(s). DOM 164;The subject is listed through the Greater Las Vegas Association of Realtors Multiple Listing Service (GLVARMLS) #2140945 as a contingent typical market sale at a list price of $315,000. Original list date 10/04/2019.

CONTRACT

I X did did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. Arms length sale;The subject is under contract and appears to be in line with the market as compared to similar properties in the subject market area. No abnormal conditions or concessions exist. Please refer to the attached addendum for more details.
Contract Price $ 300,000 | Date of Contract 03/21/2020 | Is the property seller the owner of public record? X Yes No | Data Source(s) Clark County Record
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? Yes X No
If Yes, report the total dollar amount and describe the items to be paid. $0;;

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics				One-Unit Housing Trends			One-Unit Housing			Present Land Use %	
Location	Urban	X Suburban	Rural	Property Values	Increasing	X Stable	Declining	PRICE	AGE	One-Unit	50 %
Built-Up	Over 75%	X 25-75%	Under 25%	Demand/Supply	Shortage	X In Balance	Over Supply	$ (000)	(yrs)	2-4 Unit	5 %
Growth	Rapid	X Stable	Slow	Marketing Time	X Under 3 mths	3-6 mths	Over 6 mths	250 Low	0	Multi-Family	5 %
Neighborhood Boundaries	North by St Rose Parkway, South by The Black Mountains, East by Eastern Avenue							6,000 High	35	Commercial	15 %
and to the by West by The I-15 Freeway.								410 Pred.	15	Other	25 %

Neighborhood Description See attached addendum for neighborhood description.

Present Land Use other 25% = vacant/parks
Market Conditions (including support for the above conclusions) See attached addendum for market analysis. Typical marketing times are between 30 to 90 days with a typical list to sell ratio of approximately 3-7%. Prevalent financing is the standard FHA, VA and Conventional mortgages, with some sellers taking back vendor liens.

SITE

Dimensions 24 x 74.47 | Area 1787 sf | Shape Rectangular/see plat | View N;Res;
Specific Zoning Classification P-C | Zoning Description Planned Community
Zoning Compliance X Legal Legal Nonconforming (Grandfathered Use) No Zoning Illegal (describe)
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? X Yes No If No, describe

Utilities	Public	Other (describe)		Public	Other (describe)	Off-site Improvements - Type	Public	Private
Electricity	X		Water	X		Street Asphalt	X	
Gas	X		Sanitary Sewer	X		Alley Asphalt	X	

FEMA Special Flood Hazard Area Yes X No | FEMA Flood Zone X | FEMA Map # 32003C2910F | FEMA Map Date 11/16/2011
Are the utilities and off-site improvements typical for the market area? X Yes No If No, describe
Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? Yes X No If Yes describe
No apparent adverse easements, encroachments, or other conditions noted at time of inspection. The site has average ingress/egress and parking. No visible negative factors were observed.

IMPROVEMENTS

General Description		Foundation		Exterior Description	materials/condition	Interior	materials/condition
Units X One	One with Accessory Unit	X Concrete Slab	Crawl Space	Foundation Walls	Concrete/average	Floors	Carpet/tile/good
# of Stories	2	Full Basement	Partial Basement	Exterior Walls	Frame/stucco/good	Walls	Drywall/good
Type Det. X Att.	S-Det./End Unit	Basement Area	0 sq.ft.	Roof Surface	Tile/good	Trim/Finish	Wood/paint/good
X Existing	Proposed Under Const.	Basement Finish	0 %	Gutters & Downspouts	Partial/good	Bath Floor	Tile/good
Design (Style)	Townhome	Outside Entry/Exit	Sump Pump	Window Type	Insulated/good	Bath Wainscot	Fiberglass/good
Year Built	2011	Evidence of Infestation		Storm Sash/Insulated	None	Car Storage	None
Effective Age (Yrs)	9	Dampness	Settlement	Screens	Screens/good	X Driveway	# of Cars 2
Attic	None	Heating X FWA	HWBB Radiant	Amenities	Woodstove(s) # 0	Driveway Surface	Concrete
Drop Stair	Stairs	Other	Fuel Gas	Fireplace(s) # 0	Fence None	X Garage	# of Cars 2
Floor	X Scuttle	Cooling X Central Air Conditioning		Patio/Deck None	X Porch Frnt Covd	Carport	# of Cars 0
Finished	Heated	Individual	Other	Pool None	Other None	Att.	Det. X Built-in

Appliances Refrigerator X Range/Oven X Dishwasher X Disposal X Microwave Washer/Dryer Other (describe)
Finished area above grade contains: 7 Rooms | 3 Bedrooms | 2.1 Bath(s) | 1,813 Square Feet of Gross Living Area Above Grade
Additional features (special energy efficient items, etc.). Energy efficient items include windows, appliances and mechanical systems.

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). C3,No updates in the pnor 15 years The subject is in good condition with no repairs needed. The subject's quality of construction is typical for the development.

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? Yes X No If Yes, describe

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? X Yes No If No, describe

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Uniform Residential Appraisal Report

20-284
File # 5722857

There are 16 comparable properties currently offered for sale in the subject neighborhood ranging in price from $ 289,525 to $ 349,900
There are 58 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from $ 270,000 to $ 375,000

SALES COMPARISON APPROACH

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	3183 Mura Del Prato Ave Henderson, NV 89044	1953 Via Firenze Henderson, NV 89044		1961 Via Firenze Henderson, NV 89044		1955 Via Firenze Henderson, NV 89044	
Proximity to Subject		0.06 miles NE		0.05 miles NE		0.06 miles NE	
Sale Price	$ 300,000		$ 299,000		$ 336,500		$ 322,000
Sale Price/Gross Liv. Area	$ 165.47 sq.ft.	$ 159.38 sq.ft.		$ 186.94 sq.ft.		$ 169.47 sq.ft.	
Data Source(s)		GLVARMLS #2124804;DOM 93		GLVARMLS #2104711;DOM 80		GLVARMLS #2128522;DOM 46	
Verification Source(s)		DOC #20191213-2478		DOC #20191017-1656		DOC #20191115-2375	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment
Sales or Financing		ArmLth		ArmLth		ArmLth	
Concessions		Conv;0		Cash;1500		Conv;0	
Date of Sale/Time		s12/19;c11/19		s10/19;c09/19		s11/19;c10/19	
Location	N;Res;	N;Res;		N;Res;		N;Res;	
Leasehold/Fee Simple	Fee Simple	Fee simple		Fee simple		Fee simple	
Site	1787 sf	1742 sf	0	2178 sf	0	1742 sf	0
View	N;Res;	N;Res;		N;Res;		N;Res;	
Design (Style)	AT2;Townhome	AT2;Townhome		AT2;Townhome		AT2;Townhome	
Quality of Construction	Q4	Q4		Q4		Q4	
Actual Age	9	9		6	0	9	
Condition	C3	C3		C3		C3	
Above Grade Room Count	Total Bdrms. Baths 7 3 2.1	Total Bdrms. Baths 7 3 2.1		Total Bdrms. Baths 7 3 2.1		Total Bdrms. Baths 7 3 2.1	
Gross Living Area	1,813 sq.ft.	1,876 sq.ft.	-2,200	1,800 sq.ft.	0	1,900 sq.ft.	-3,000
Basement & Finished Rooms Below Grade	0sf	0sf		0sf		0sf	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	F/A-Central	F/A-Central		F/A-Central		F/A-Central	
Energy Efficient Items	Appl/windows	Appl/windows		Appl/windows		Appl/windows	
Garage/Carport	2gbi2dw	2gbi2dw		2gbi2dw		2gbi2dw	
Porch/Patio/Deck	Covered porch	Covered porch		Covered porch		Covered porch	
Fireplace	No fireplace	No fireplace		No fireplace		No fireplace	
Fence/Pool/Spa	Yes/none	Yes/none		Yes/none		Yes/none	
Upgraded Features	Per inspection	Similar	0	Superior	-25,000	Similar	0
Net Adjustment (Total)		+ X -	$ -2,200	+ X -	$ -25,000	+ X -	$ -3,000
Adjusted Sale Price of Comparables		Net Adj. 0.7 % Gross Adj. 0.7 %	$ 296,800	Net Adj. 7.4 % Gross Adj. 7.4 %	$ 311,500	Net Adj. 0.9 % Gross Adj. 0.9 %	$ 319,000

I X did did not research the sale or transfer history of the subject property and comparable sales. If not, explain

My research did X did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.
Data Source(s) Clark County Public Records and Greater Las Vegas Association of Realtors Multiple Listing Service.
My research did X did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.
Data Source(s) Clark County Public Records and Greater Las Vegas Association of Realtors Multiple Listing Service.
Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer				
Price of Prior Sale/Transfer				
Data Source(s)	Clark County Records	Clark County Records	Clark County Records	Clark County Records
Effective Date of Data Source(s)	03/15/2020	03/15/2020	03/15/2020	03/15/2020

Analysis of prior sale or transfer history of the subject property and comparable sales See attached addendum for a detailed sale history.

Summary of Sales Comparison Approach The comparables utilized in this appraisal report are felt to be the best and most reliable as of the date of this appraisal assignment. Overall, I had good comparable data considering the size of the subject site and residence. The sales and listings support the final opin on of value as indicated in this report. The sales comparison approach is the most reliable indicator of value. See attached addendum for comments on Sales Comparison. This appraisal must be accompanied by the attached addendum which is considered to be an important part in the determination of the subject's estimated market value.

Indicated Value by Sales Comparison Approach $ 300,000

RECONCILIATION

Indicated Value by: Sales Comparison Approach $ 300,000 Cost Approach (if developed) $ 300,348 Income Approach (if developed) $
See attached addendum for final reconciliation of estimated value.

This appraisal is made X "as is", subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair:

Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is $ 300,000 , as of 03/31/2020 , which is the date of inspection and the effective date of this appraisal.

ADDITIONAL COMMENTS

See attached addendum.

COST APPROACH

COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value) The subject lot value was established by the extraction method since there have been no recent sales of similar sized lots within the subject neighborhood.

ESTIMATED REPRODUCTION OR X REPLACEMENT COST NEW

Source of cost data Local Developers/builders

Quality rating from cost service Good Effective date of cost data 03/01/2020

Comments on Cost Approach (gross living area calculations, depreciation, etc.)

Depreciation is calculated by effective age divided by total economic life.

No significant functional/external obsolescence or deffered maintenance was noted.

OPINION OF SITE VALUE			=$	45,000
DWELLING	1,813 Sq.Ft. @ $	135.00	=$	244,755
	0 Sq.Ft. @ $		=$	
			=$	
Garage/Carport	462 Sq.Ft. @ $	95.00	=$	43,890
Total Estimate of Cost-New			=$	288,645
Less Phys cal	Functional	External		
Depreciation 43,297			=$	(43,297)
Depreciated Cost of Improvements			=$	245 348
"As-is" Value of Site Improvements			=$	10,000
Estimated Remaining Economic Life (HUD and VA only) 51 Years		INDICATED VALUE BY COST APPROACH	=$	300,348

INCOME

INCOME APPROACH TO VALUE (not required by Fannie Mae)

Estimated Monthly Market Rent $ X Gross Rent Multiplier = $ Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM)

PUD INFORMATION

PROJECT INFORMATION FOR PUDs (if applicable)

Is the developer/builder in control of the Homeowners' Association (HOA)? Yes X No Unit type(s): Detached X Attached

Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.

Legal Name of Project

Total number of phases Total number of units Total number of units sold

Total number of units rented Total number of units for sale Data source(s)

Was the project created by the conversion of existing building(s) into a PUD? Yes No If Yes, date of conversion.

Does the project contain any multi-dwelling units? Yes No Data Source

Are the units, common elements, and recreation facilities complete? Yes No If No, describe the status of completion.

Are the common elements leased to or by the Homeowners' Association? Yes No If Yes, describe the rental terms and options.

Describe common elements and recreational facilities.

This report form is designed to report an appraisal of a one-unit property or a one-unit property with an accessory unit; including a unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal report is the lender/client.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.

2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.

5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing the appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.

6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.

2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.

3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.

4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.

5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.

6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.

7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.

8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.

9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.

10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.

11. I have knowledge and experience in appraising this type of property in this market area.

12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.

13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.

14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.

15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.

16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.

17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.

18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).

19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.

20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).

22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.

24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.

2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.

3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.

4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.

5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature
Name Thomas L. Witherby
Company Name Witherby Appraisal, Inc.
Company Address 1762 Pandora Drive
Las Vegas NV 89123
Telephone Number (702) 600-7111
Email Address twitherby@witherbyappraisal.com
Date of Signature and Report 04/01/2020
Effective Date of Appraisal 03/31/2020
State Certification # A.0001528-CR
or State License #
or Other (describe) State #
State NV
Expiration Date of Certification or License 03/31/2022

ADDRESS OF PROPERTY APPRAISED
3183 Mura Del Prato Ave
Henderson, NV 89044
APPRAISED VALUE OF SUBJECT PROPERTY $ 300,000
LENDER/CLIENT
Name No AMC
Company Name Academy Mortgage Corporation
Company Address 339 W 13490 S , Draper , UT 84020

Email Address

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature
Name
Company Name
Company Address

Telephone Number
Email Address
Date of Signature
State Certification #
or State License #
State
Expiration Date of Certification or License

SUBJECT PROPERTY

Did not inspect subject property
Did inspect exterior of subject property from street
Date of Inspection
Did inspect interior and exterior of subject property
Date of Inspection

COMPARABLE SALES

Did not inspect exterior of comparable sales from street
Did inspect exterior of comparable sales from street
Date of Inspection

Form 1004UAD - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Uniform Residential Appraisal Report

20-284
File # 5722857

SALES COMPARISON APPROACH

FEATURE	SUBJECT	COMPARABLE SALE # 4		COMPARABLE SALE # 5		COMPARABLE SALE # 6	
Address	3183 Mura Del Prato Ave Henderson, NV 89044	1946 Via Firenze Henderson, NV 89044		1930 Via Firenze Henderson, NV 89044		2015 Via Firenze Henderson, NV 89044	
Proximity to Subject		0.11 miles E		0.11 miles E		0.08 miles SE	
Sale Price	$ 300,000		$ 300,000		$ 299,999		$ 319,900
Sale Price/Gross Liv. Area	$ 165.47 sq.ft.	$ 157.15 sq.ft.		$ 167.04 sq.ft.		$ 165.58 sq.ft.	
Data Source(s)		GLVARMLS #2146466;DOM 100		GLVARMLS #2147516;DOM 130		GLVARMLS #2153427;DOM 110	
Verification Source(s)		DOC #20200316-1996		Listing Agent/Assessor Records		Listing Agent/Assessor Records	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment
Sales or Financing		ArmLth		Listing		Listing	
Concessions		Cash;0		Active List;0		Contingent;0	
Date of Sale/Time		s03/20;c01/20		Active		Active	
Location	N;Res;	N;Res;		N;Res;		N;Res;	
Leasehold/Fee Simple	Fee Simple	Fee simple		Fee simple		Fee simple	
Site	1787 sf	2178 sf	0	2178 sf	0	2178 sf	0
View	N;Res;	N;Res;		N;Res;		N;Res;	
Design (Style)	AT2 Townhome	AT2;Townhome		AT2;Townhome		AT2;Townhome	
Quality of Construction	Q4	Q4		Q4		Q4	
Actual Age	9	12	0	12	0	11	0
Condition	C3	C3		C3		C3	
Above Grade	Total Bdrms. Baths	Total Bdrms. Baths		Total Bdrms. Baths		Total Bdrms. Baths	
Room Count	7 3 2.1	7 3 2.1		7 3 2.1		7 3 2.1	
Gross Living Area	1,813 sq.ft.	1,909 sq.ft.	-3,400	1,796 sq.ft.	0	1,932 sq.ft.	-4,200
Basement & Finished	0sf	0sf		0sf		0sf	
Rooms Below Grade							
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	F/A-Central	F/A-Central		F/A-Central		F/A-Central	
Energy Efficient Items	Appl/windows	Appl/windows		Appl/windows		Appl/windows	
Garage/Carport	2gbi2dw	2gbi2dw		2gbi2dw		2gbi2dw	
Porch/Patio/Deck	Covered porch	Covered porch		Covered porch		Covered porch	
Fireplace	No fireplace	No fireplace		No fireplace		No fireplace	
Fence/Pool/Spa	Yes/none	Yes/none		Yes/none		Yes/none	
Upgraded Features	Per inspection	Similar	0	Similar	0	Similar	0
Net Adjustment (Total)		+ X -	$ -3,400	+ -	$ 0	+ X -	$ -4,200
Adjusted Sale Price		Net Adj. 1.1 %		Net Adj. 0.0 %		Net Adj. 1.3 %	
of Comparables		Gross Adj. 1.1 %	$ 296,600	Gross Adj. 0.0 %	$ 299,999	Gross Adj. 1.3 %	$ 315,700

SALE HISTORY

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE # 4	COMPARABLE SALE # 5	COMPARABLE SALE # 6
Date of Prior Sale/Transfer				
Price of Prior Sale/Transfer				
Data Source(s)	Clark County Records	Clark County Records	Clark County Records	Clark County Records
Effective Date of Data Source(s)	03/15/2020	03/15/2020	03/15/2020	03/15/2020

Analysis of prior sale or transfer history of the subject property and comparable sales

ANALYSIS / COMMENTS

Analysis/Comments

EXHIBIT 3

Declaration of Thomas Witherby

AFFIDAVIT OF THOMAS L. WITHERBY IN SUPPORT OF MOTION TO STAY ENFORCEMENT OF REVOCATION ORDER

I, Thomas L. Witherby, attest as follows in support of the Motion to Stay Enforcement of Revocation Order:

1. I am the Plaintiff and am familiar with the events that form the basis of the allegations in this case.

2. I currently live in the state of Florida having recently moved to care for my ailing parents. I have practiced as an appraiser in Nevada since 1993 and have had a clean record for 30 years, with the exception of this complaint.

3. A filed a complaint was filed against me on May 19, 2023.

4. The complaint was set to be heard by the Commission at its meeting on July 18-20, 2023.

5. On May 30, 2023, I represented to the Division that I had turned in my license in May of 2021 and did not intend to reactivate it in Nevada.

6. The Division presented confidential settlement terms to me which I rejected and contested the case against me because I did not believe the complaint was an accurate reflection of the situation.

7. In lieu of engaging in lengthy proceedings and in light of my parents situation in Florida, I offered to voluntarily surrender my license.

8. As a result of the contested case proceeding, I notified OREP, my errors and omissions insurance company, of the pending case.

9. On July 12, 2023, the Division sent me the final agenda for the meeting.

10. On July 13, 2023, Craig M. Capilla, national claims counsel for OREP insureds, requested a continuance on my behalf because he was in the process of

reviewing the claims and assigning local counsel to represent me, which never happened.

11. On July 14, 2023, the Commission's secretary approved the request for continuance and set the hearing for the October Commission meeting.

12. A week before the October hearing, I had still not heard from Mr. Capilla about local counsel for the hearing and so I called him.

13. Mr. Capilla relayed that he was busy and forgot but had an attorney call me.

14. The attorney I spoke to advised that she could not prepare my case in one week so the only thing I could do was travel to Las Vegas to beg for my license.

15. I could not afford to travel to Las Vegas at the time and my father's health was failing so I relayed that I would call in to the October hearing.

16. The attorney strongly advised against calling in.

17. On October 10, 2023, the Commission entered the Revocation Order which revoked my license and ordered me to pay the maximum amount of fines and costs for a total of $63,897.22.

18. None of the claims against me are based in fraud or dishonesty or a means for me to benefit financially nor was there any intent on my part to deceive anyone. By way of history, I prepared the Appraisal in early 2020 and the agent for the buyer, (who is not even an intended user of the report) filed the complaint.

19. The complaint stated several untrue things. The division opened an investigation because of it and I made my written rebuttal to the complaint.

20. The Complaint alleges 3 general things: First, I failed to report a prior sales history of the subject property (by law I am required to report sales history of last 3 years but didn't). I self-reported this to the division, pointing it out before the

investigation began. Second, the division's software indicated one of my adjustments was off on a couple of counts. Third, a recordkeeping issue: there was no linear regression in the work file but the report stated there was, which was an error.

21. None of these violations would have changed the value of the property as assessed. In fact, my report included 58 comparable properties in the file in support of the property's value – which was a townhouse appraisal in Inspirada.

22. No where in the Complaint does it say I was incorrect or dishonest about the property value. The Complaint's allegations are based primarily in file-keeping issues, none of which were intentional and none of which impacted the ultimate conclusion of the report.

23. The Complaint does not infer I was dishonest, intentionally manipulated anything, nor did I. The complaint is based in clerical and housekeeping issues for an appraisal file.

24. I have had my livelihood stripped and license revoked, along with crippling fines as a result of an otherwise clean record.

25. The state infers prior discliplne but cites to two prior instances - neither of which are "discipline": 1) Case number 2017-2344, AP18.004.S: case closed insufficient evidence of a violation. And, 2) Case number 2018-738, AP18.025-S, a letter of instruction was sent to the respondent on work file issues. Neither of these is disclipline.

26. In my 30 years of practice as an appraiser, I have never been disciplined.

27. The impact on my household for the extreme penalties and revocation has been grave: I just completed taxes which reflect that my wife and I have lost tens of

thousands of dollars in income as a result of the revocation. I received no work the last 3 months of 2023 and the income deficit continues in to 2024.

28. Since 1993 there has been no discipline against me. However, the violation has dramatically impacted my life. The discipline is on record at ASC.gov which every lender has to check to make sure appraisers aren't on the list. Disciplinary action on my Nevada appraiser's license is preventing me from working.

29. Over the past year, I took a class to become an insurance appraiser, passed the test and am wanting to pursue this career. I am not able to pursue this career because of disciplinary action on the license.

30. I understand that there is a reciprocal agreement between states that administrative action in one state applies to every state which is why I cannot practice under my insurance adjuster license.

31. Right now, I am living off credit cards. In the least, I need to work to pay the fees.

32. Further, the division revoked a license that was expired and inactive and they nonetheless revoked it which is a punishment and disciplinary in and of itself, on top of the massive fines.

33. According to the Division, they served the Revocation Order on my "agent" on October 16, 2023 in Chicago; however, I never received a mailed copy of the Order from the Board or Division.

34. Additionally, I never received a copy of the order at my home address in Florida. I found out through a client, after the deadline to respond to the order had passed, that I had a disciplinary action noted on my record. This prompted me to retain my current counsel.

35. Further, I did not have an "agent" at any point during these proceedings until I retained Kaempfer Crowell on or about January 4, 2024.

36. It was made clear to the division, in writing, that I was still searching for counsel.

37. I currently still hold an appraiser license in Florida but the record of discipline in the database prevents me from practicing as an appraiser or as an insurance agent.

38. After the Order was entered against me, my longtime clients couldn't use me. In fact, my biggest client has stopped sending me any orders since October 2022.

39. I have lost my ability to make a living.

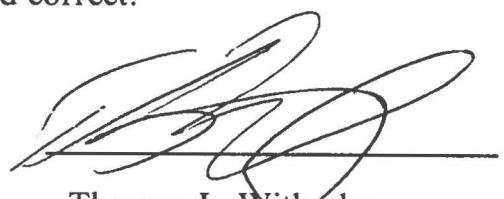
40. As a result, my wife and I had to file for social security benefits to make ends meet.

41. I applied and took a course to be an insurance adjuster in Florida, but I was denied a license due to this action in Nevada.

42. I was advised that I would not be issued an adjuster license in Florida because the states have a reciprocal agreement for punishment of any license. I was also advised that I would likely not be able to renew my appraiser license in November.

43. I am currently doing very minimal work with my license as a result of this case which is not enough to make ends meet.

I declare that the foregoing is true and correct.



Thomas L. Witherby

EXHIBIT 4

Revocation Order
dated October 10, 2023

BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE

STATE OF NEVADA

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

Petitioner,

vs.

THOMAS L. WITHERBY
(License No. A.0001528-CR),

Respondent.

Case No. 2020-492, AP20.045.S

FILED

OCT 10 2023

NEVADA COMMISSION OF APPRAISERS

mgallo

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Nevada Commission of Appraisers of Real Estate (the "Commission"), on Tuesday, October 3, 2023 (the "Hearing"). Thomas L. Witherby ("Respondent") did not appear in person, through counsel, or otherwise. Christal Park Keegan, Esq., Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of Petitioner Sharath Chandra, Administrator of the Real Estate Division, Department of Business and Industry, State of Nevada (the "Division").

Mrs. Keegan advised the Commission that RESPONDENT was aware of his attendance at the hearing, and that his hearing was scheduled for the July 18-20, 2023 hearings, but the RESPONDENT requested a continuance, which the Commission granted. The Division sent the RESPONDENT Meeting Re-Notices no later than 30 days prior to the October 3-5, 2023 hearings. The RESPONDENT never filed an Answer as part of the record in the proceedings and did not ask for a second continuance.

Therefore, the Division proceeded with a default pursuant to NAC 645C.500(13). The Division's Commission Coordinator, Maria Gallo, testified regarding proper notice to the RESPONDENT. The Commission found appropriate service of the notice of the hearing, the complaint and notice thereof, the Notice of Documents with documents numbered 0001 – 0364 was made, and all other efforts taken to inform the RESPONDENT of the matter before the Commission.

. . .

Therefore, the Commission, having considered the evidence introduced by the Division and being fully advised, enters the following Findings of Fact, Conclusions of Law, and Order:

I. JURISDICTION

At all times relevant to this Complaint, the Respondent was 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 himself of the benefits and protections of the laws of the State of Nevada, the Respondent has submitted to the jurisdiction of the Division.

II. FINDINGS OF FACT

The matter having been submitted for decision based upon the allegations of the Complaint, the Commission now, based upon the evidence presented during the hearing, finds that there is substantial evidence in the record to establish each of the following:

1. The Respondent's Nevada Certified Residential Appraiser, License No. A.0001528-CR, has been in closed, expired status for over a year as of March 31, 2022.

2. The Respondent prepared an Appraisal Report for 3183 Mura Del Prato, Henderson, Nevada 89044 ("Property"). *0057 – 0103.*

3. The Respondent's Appraisal Report represented use of linear regression modules to support the adjustments made in the sales grid but admitted lack of understanding of how to properly complete a linear regression. *0067.*

4. Further, the Respondent's Appraisal Report and workfile do not contain statistical analysis to support the adjustments made in the sales grid. *0057 – 0329.*

5. The Complainant alleged the Respondent failed to support adjustments made for upgraded features. *0002*

6. The Respondent's Appraisal Report and workfile failed to support the $25,000 adjustment made to Comparable Sale #2's upgraded features. *0059.*

7. The Complainant alleged homes built by Toll Brothers are premium but the Respondent failed to note such benefit for Comparables #s 1-3 built by Toll Brothers. *0002.*

. . .

. . .

8. The Respondent's Appraisal Report did not make adjustments for differing builders when data indicates a resale townhome built by Toll Brothers commands a higher premium. *0059, 0064, and 0343.*

9. The Complainant alleged the RESPONDENT misrepresented Comparables #s 1, 3, 4, 5, and 6 as end-units and made no adjustments or comments about the impact of this feature. *0002.*

10. The Property is an end-unit townhome but the Respondent's Appraisal Report contained only one end-unit comparable, Comparable #2, with no adjustments made to the other non-end-unit comparables. *0059 and 0064.*

11. The Respondent's Appraisal Report and workfile provided no evidence to support the opinion that seller concessions do not affect pricing, even if under 3% of the sales price. *0067, and 0057 – 0329.*

12. The Respondent's Appraisal Report failed to report and analyze a prior sale of the Property that occurred within the prior three years despite such information publicly recorded. *0350.*

13. The Respondent's Appraisal Report appraised for $300,000 which was less than what the Property sold for two years prior at $310,000. *0350, and 0063.*

III. CONCLUSIONS OF LAW

The Commission, based upon the preponderance of the evidence, makes the following legal conclusions:

The Respondent failed to prepare the appraisal report for the 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)[1].

First Violation

The USPAP RECORD KEEPING RULE requires an appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile must be in existence prior to the issuance of any report or other communication of assignment results. A written summary of an oral report must be added

[1] The 2020-2021 edition of USPAP, effective January 1, 2020 through December 31, 2021, is applicable to and utilized for this Complaint.

to the workfile within a reasonable time after the issuance of the oral report. The workfile must include 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.

The Respondent violated USPAP RECORD KEEPING RULE by failing to include statistical analysis to support the adjustments made in the sales grid within the Appraisal Report or workfile.

The 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

USPAP Standards Rule 1-1(c) requires that an appraiser in developing a real property appraisal must (c) not render appraisal 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.

Respondent violated Standards Rule 1-1(c) by failing to contain documentation to support the $25,000 adjustment for Comparable #2's upgraded features.

Respondent further violated Standards Rule 1-1(c) by failing to adjust for differing builders in the Appraisal Report when Comparables #s 1, 2, and 3 are Toll Brother built units, and Comparables #s 4, 5, and 6 are KB Homes built units.

Respondent also violated Standards Rule 1-1(c) by failing to use more than just one end-unit comparable, Comparable #2, and failing to make adjustments to the other non-end-unit comparables, Comparables #s 1, 3, 4, 5, and 6.

The 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).

Third Violation

USPAP Standards Rule 1-2(c) required an appraiser, in developing a real property appraisal, must (c) not render appraisal 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 Standards Rule 1-2(c) by failing to provide support for the opinion that seller concessions of 3% or less do not affect pricing and failing to update the boiler plate Definition of Value language stating "the seller pays these costs in virtually all sales transactions" which contradicted his opinion that there were seller concessions.

The 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).

Fourth Violation

USPAP Standards Rule 1-5(b) provides that when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business: (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

Respondent violated Standards Rule 1-5(b) by failing to report or analyze the publicly recorded prior sale of the Property which occurred June 21, 2018, for $310,000, less than two (2) years prior to the effective date of the Appraisal Report.

The 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).

Fifth Violation

USPAP Standards Rule 2-1(a) requires 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.

In violation of Standards Rule 2-1(a), Respondent failed to change his Definition of Value to match his opinion that there were seller concessions, even if under 3% of the sale price.

Respondent also violated Standards Rule 2-1(a) when he made a series of errors which in their aggregate can mislead the intended user, specifically, when Respondent failed to support the $25,000 adjustment for Comparable #2's upgraded features; failed to adjust for differing

builders; used only one end-unit comparable, Comparable #2, and failed to make adjustments to the other non-end-unit comparables.

The 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

USPAP Standards Rule 2-2(a)(x) requires each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report. (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum (x) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 by: (1) summarizing the appraisal methods and techniques employed; (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed; (3) summarizing the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5; [Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.]. (4) stating the value opinion(s) and conclusion(s); and (5) summarizing the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data and approaches.

Respondent violated Standards Rule 2-2(a)(x) by failing to analyze the previous sale in the Appraisal Report.

The 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).

ORDER

The Commission, being fully apprised in the premises and good cause appearing, hereby ORDERS:

1. Respondent's license (License No. A.0001528-CR) is revoked;

2. Respondent shall pay to the Division a fine of $10,000 per violation for committing the above-stated six (6) violations of law for a total administrative fine of $60,000;

3. Respondent shall pay the costs of the investigation and the hearing in the amount of $3,897.22 which is actual, reasonable, and necessary;

4. The total amount the Respondent shall pay is $63,897.22 and shall be paid in full within 180 days of this Order;

5. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default by Respondent. In the event of default, the unpaid balance of the costs and fees, together with any attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten (10) calendar days of the date of default. The Division may institute debt collection proceedings for failure to timely pay the total fine; and

6. The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this document.

DATED this 10th day of October, 2023.

NEVADA REAL ESTATE COMMISSION

By: _____
President, John Wright
Nevada Real Estate Commission

DATED this 4th day of October, 2023.

AARON D. FORD
Attorney General

By: epkeegan
CHRISTAL P. KEEGAN (Bar No. 12725)
Deputy Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
(775) 687-2141
Attorney for Real Estate Division

EXHIBIT 5

Transcript - APPR CARE Commission Meeting on October 3, 2023

JOHN WRIGHT: Do I have a second?

SCOTT KRUEGER: A second.

JOHN WRIGHT: Any discussion? All in favor?

COMMISSION: Aye.

JOHN WRIGHT: Opposed? So the motion carries unanimously. Okay, now we're going to move on to the motion regarding proper service for the complaint.

SCOTT KRUEGER: I have a question for Ms. Gallo.

JOHN WRIGHT: Go ahead Commissioner Krueger.

SCOTT KRUEGER: So, do we have the last known address of where these documents were sent to?

MARIA GALLO: Yes.

SCOTT KRUEGER: And what is that?

MARIA GALLO: 5921 North, Glam Drive, Beverly Hills, Florida 34465.

JOHN WRIGHT: So, a question for you, because there was legal counsel involved, was legal counsel noticed?

MARIA GALLO: It wasn't his legal counsel per se, he was the attorney contact for his insurance, and he told us that a local attorney was going to be appointed for him. So in your question, yes, he was also noticed, but he's not his lawyer okay per se.

JOHN WRIGHT: Okay, so all of the contacts you have for this case on his side were noticed?

MARIA GALLO: Yes.

SCOTT KRUEGER: President Wright, if we could defer to Ms. Keegan for a minute please.

JOHN WRIGHT: Yes, go ahead.

CHRISTAL KEEGAN: Thank you, Commissioners. Yeah, just to clarify, when we first noticed the respondent, Mr. Thomas Witherby, he did not have legal counsel, and so, these notices were sent to him at his personal residence. He then retained legal counsel through his insurance company, and his attorney confirmed that the respondent provided the documents that were sent to the Respondent to his attorney, so just wanted to clarify that.

JOHN WRIGHT: Do we know who his local counsel was, though?

CHRISTAL KEEGAN: No, we do not. He had an attorney, through his insurance, who said that local counsel was -- the case was going to be deferred, but we followed up, and did not hear anything. No local counsel has made any formal appearance or made themselves known to the Division, nor to the State.

JOHN WRIGHT: Okay, thank you.

SCOTT KRUEGER: And just to clarify, Ms. Keegan, if counsel was assigned and they recused or left the case, it would be typical professional courtesy to notify you

that they were leaving the case, correct?

CHRISTAL KEEGAN: Yes.

SCOTT KRUEGER: Okay.

CHRISTAL KEEGAN: Alright, so I guess unless there's any further questions, we can just proceed as far as a default here, pursuant to NAC.645C.513.

JOHN WRIGHT: Excuse me, Ms. Keegan, we still need a motion to admit proof of service.

UNKNOWN SPEAKER: President Wright, I move that we accept the direct testimony of Maria Gallo, State of Nevada, as direct evidence of proof of service to the defendant.

JOHN WRIGHT: Do I have a second?

SCOTT KRUEGER: I second.

JOHN WRIGHT: Any further discussion? All in favor.

COMMISSION: Aye.

JOHN WRIGHT: Opposed? That motion carries unanimously. Okay, Ms. Keegan, if you would proceed, please.

CHRISTAL KEEGAN: Yes, thank you Commissioner, unless the Commissioners wish for me to read the filed complaint, otherwise, pursuant to NAC.645C.513, the Commission can just accept as true the factual allegations and legal violations in the Division's filed complaint.

Since it's part of the record, so you can now make a motion, to find -- to accept the factual allegations and legal violations in our filed complaint, please.

TIMOTHY O'BRIEN: President Wright, I'd like to pose a question before we make a decision on that, if I could, probably to Ms. Keegan and Ms. Staffen, what is the current license status of Mr. Witherby in the State of Nevada?

CHRISTY STAFFEN: He expired on March 31st, 2022.

TIMOTHY O'BRIEN: So, by expiration, for clarification, just for the record, he is still technically able to renew, correct?

CHRISTY STAFFEN: Correct.

TIMOTHY O'BRIEN: So, he's not active today, but really, we're going to have to look at this case to determine his permanent licensure status. At what point would he not be able to renew?

CHRISTY STAFFEN: If you revoke?

TIMOTHY O'BRIEN: No, I understand revocation, but is there a time period?

CHRISTY STAFFEN: Oh so, they can reinstate an inactive license.

SCOTT KRUEGER: Within a year.

CHRISTY STAFFEN: There is no time limit. It is just they have to do 15 hours of education per year, that

they are absent or inactive.

TIMOTHY O'BRIEN: Got it. One last logistical question, and thank you for indulging with President Wright. Since Witherby has not shown up, and if we're to choose to accept the factual allegations as true, and he was to appeal it at a later time, either through the courts or other items, he would have that avenue, but at this point, since he is not showing up, we have the option to just proceed as is, and take action on an absent respondent, correct?

CHRISTY STAFFEN: Correct.

TIMOTHY O'BRIEN: Alright. President Wright, that was the clarifications I needed. I defer back to you, sir, and my apologies for the time.

JOHN WRIGHT: Yeah, no problem.

CHRISTAL KEEGAN: If I may clarify, his license is closed. He cannot reinstate it.

CHRISTY STAFFEN: Okay.

CHRISTAL KEEGAN: You get one year from your expiration date to reinstate. His license expired in 2022. He had until March of 2023 to reinstate it, renew it, pay it up, and he has not, so it is closed.

TIMOTHY O'BRIEN: So he would have to start as a new applicant, correct?

CHRISTAL KEEGAN: Correct.

JOHN WRIGHT: Do we know if he is licensed in any other jurisdiction?

CHRISTY STAFFEN: We do. He is licensed in Florida.

JOHN WRIGHT: So, anything we do here would be reflected and Florida would receive notification of?

CHRISTY STAFFEN: Yeah, so he would -- we would report the discipline to the ASC, and then through the National Registry, they would be notified, if Florida has, there's a thing you can sign up for notifications, which I know they do have, because I have been requested for public documents from them before, and then they can get on our website at any time, and pull the stipulated order.

TIMOTHY O'BRIEN: But just to clarify his current status, we wouldn't report to Florida that he just didn't renew. They would be able to see that on a ASC, but that would not be considered discipline.

CHRISTAL KEEGAN: Correct.

TIMOTHY O'BRIEN: So it would just be like if he moved to Florida and said, I'm never studying, put in the state again because I moved. So really, the point that it appears that we're acting on is, do we move from that closed status to potentially revocation, which would trigger, or discipline there to thus create a notification event across the country.

CHRISTAL KEEGAN: Right.

JOHN WRIGHT: Okay. Any other questions before we move forward with a motion? Do I have a motion, or, based on the motion of finding regarding the violations alleged in the complaint.

SCOTT KREUGER: We go through first the factual allegations, all as one, and then after that, the violations, all as one, that kind of thing.

TIMOTHY O'BRIEN: President Wright, I make a motion to accept the factual allegations as presented in the Case No. 2020-492 AP21.045.S NRED v. Thomas L. Witherby, License No. A.0001528-CR.

JOHN WRIGHT: Do I have a second?

SCOTT KRUEGER: President Wright I second.

JOHN WRIGHT: Any discussion? So, down here, both of you asked if those shouldn't be read into the record. Was that not what you were saying?

LARRY GANDY: No, no, I was saying, I think, for, well, I didn't say anything, personally, but my personal opinion is, I think that the factual allegations need to be accepted, if they're not in, in contention, and then we go into the allegations, and again, if they're not defended.

TIMOTHY O'BRIEN: That was the motion just now, we're accepting all.

EXHIBIT 6

Deed

First American

clarityfirst® Recorded Document

The Recorded Document images are displayed in the subsequent pages for following request:

State	County	Document Number
NV	**Clark**	**2020.0428.0002108**

Limitation of Liability for Informational Report

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Inst #: 20200428-0002108
Fees: $42.00
RPTT: $1530.00 Ex #:
04/28/2020 02:14:01 PM
Receipt #: 4059975
Requestor:
ROC TITLE
Recorded By: ANI Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

A.P.N.: 191-11-812-117
R.P.T.T.: $1,530.00

Escrow No.: GV2168-MM

RECORDING REQUESTED BY:
ROC Title, LLC

Mail tax bill to and when recorded mail to:
Madeline Elizabeth Carlson
3183 Mura Del Prato Ave.
Henderson, NV 89044

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That **Marc Gelormini and Lucy Gelormini, husband and wife, as joint tenants,** for a valuable consideration, the receipt of which is hereby acknowledged, do(es) hereby Grant, Bargain, Sell and Convey to **Madeline Elizabeth Carlson, A Single Woman,** all that real property situated in the County of **Clark**, State of Nevada, described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A".

COMMONLY KNOWN ADDRESS:
3183 Mura Del Prato Ave., Henderson, NV 89044

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any:

2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Escrow No.:GV2168-MM

IN WITNESS WHEREOF, this instrument has been executed this 27 day of April, 2020

Marc Gelormini

Lucy Gelormini

Marc Gelormini

Lucy Gelormini

STATE OF Nevada

COUNTY OF Clark

I, Brandy Phillips, a Notary Public for the county of Clark and State of Nevada, do hereby certify that Marc & Lucy Gelormini personally appeared before me this day and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his) (her) knowledge and belief.

Witness my hand and official seal, this 27 day of April, 2020.

Notary Public

My Commission Expires: 9/6/23

(SEAL)

BRANDY PHILLIPS
Notary Public-State of Nevada
Appointment No. 19-4296-01
My Appointment Expires 09-06-2023

Brandy Phillips
19-4296-01
09-06-2023

EXHIBIT "A"

PARCEL I:

LOT ONE HUNDRED SEVENTEEN (117) IN BLOCK TWENTY (20) OF SOUTH EDGE INSPIRADA, VILLAGE 1 POD 1, PHASE 1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 134 OF PLATS, PAGE 7, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA AND AMENDED BY CERTIFICATE OF AMENDMENT RECORDED NOVEMBER 8, 2006 IN BOOK 20061108 AS DOCUMENT NO. 02121 AND AMENDED BY CERTIFICATE OF AMENDMENT RECORDED MARCH 13, 2007 IN BOOK 20070313 AS DOCUMENT NO. 01511 AND AMENDED BY CERTIFICATE OF AMENDMENT RECORDED OCTOBER 09, 2009 IN BOOK 20091009 AS DOCUMENT NO. 02422, OFFICIAL RECORDS.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS ALL THOSE AREAS SHOWN AS PRIVATE DRIVES ON THE FINAL MAP OF SOUTH EDGE INSPIRADA, VILLAGE 1, POD I, PHASE 1.

APN: 191-11-812-117

State of Nevada
Declaration of Value

FOR RECORDERS OPTIONAL USE ONLY
Document/Instrument #_____
Book:_____ Page:_____
Date of Recording:_____
Notes:_____

1. **Assessor Parcel Number(s)**
   a) 191-11-812-117
   b) _____
   c) _____
   d) _____

2. **Type of Property:**
   a) ☐ Vacant Land b) ☐ Single Fam. Res.
   c) ☒ Condo/Twnhse d) ☐ 2-4 Plex
   e) ☐ Apt. Bldg. f) ☐ Comm'l/Ind'l
   g) ☐ Agricultural h) ☐ Mobile Home
   i) ☐ Other_____

3. **Total Value/Sales Price of Property:** $ 300,000 —
   Deed in Lieu of Foreclosure Only (value of property) $ —
   Transfer Tax Value per NRS 375.010, Section 2: $ 300,000 —
   Real Property Transfer Tax Due: $ 1530.00

4. **If Exemption Claimed:**
   a. Transfer Tax Exemption, per NRS 375.090, Section: _____
   b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity Grantor

Signature _____ Capacity Grantee

SELLER (GRANTOR) INFORMATION (REQUIRED)	BUYER (GRANTEE) INFORMATION (REQUIRED)
Print Name: Marc & Lucy Gelormini	Print Name: Madeline Elizabeth Carlson
Address: 769 Maranello St.	Address: 3183 Mura Del Prato Ave.
City: Henderson	City: Henderson
State: NV Zip: 89052	State: NV Zip: 89044

COMPANY REQUESTING RECORDING
(REQUIRED IF NOT THE SELLER OR BUYER)
Print Name: ROC TITLE Escrow # GV2168-MM
Address: 2831 ST. ROSE PKWY. #121
City: HENDERSON State: NV Zip: 89052

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

EXHIBIT 7

Notice of Denial from State of Florida Dated November 27, 2023

CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

November 27, 2023

THOMAS WITHERBY
PERSONAL AND CONFIDENTIAL
5921 N LAMPPOST DRIVE
BEVERLY HILLS FL 34465

CERTIFIED MAIL
RETURNED RECEIPT REQUESTED
ARTICLE #: 9489 0090 0027 6485 2654 35

NOTICE OF DENIAL

Dear Mr. Witherby,

The Department has received and reviewed your application for licensure. You are notified that the Department intends to deny your application for licensure as a Resident All Lines (06-20) adjuster, based upon the following:

FACTUAL BASIS
The denial is based upon the following factual allegations:

On October 10, 2023, the Nevada Commission of Appraisers of Real Estate issued a Findings of Fact, Conclusions of Law and Order, Case Number 2020-492-AP20.045.S against you, Thomas Witherby, alleging failure to include statistical analysis to support the adjustments made in the sales grid within the Appraisal Report or work file, failure to contain documentation to support the $25,000 adjustment for Comparable #2's upgraded features, failed to use more than one end-unit comparable, failed to provide support for the opinion that seller concessions of 3% or less do not affect pricing and failing to update the boilerplate, failed to report or analyze the publicly recoded prior sale of the property and failure to analyze the previous sale in the Appraisal report. You were ordered to pay $60,000.00 in fines and $3,897.22 in investigatory costs for a total of $63,897.22. Your license was also revoked for failure to file a response to the Findings of Fact.

APPLICABLE STATUTES AND RULES
The denial is also based on the Department's authority and duties under the following statutory and rule provisions:

Section 626.207, Florida Statutes, including but not limited to the following provisions:

(2) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to any of the following crimes, regardless of adjudication, is permanently barred from licensure under this chapter:

(a) A felony of the first degree;
(b) A capital felony;
(c) A felony involving money laundering;
(d) A felony embezzlement; or
(e) A felony directly related to the financial services business.

(3) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to a crime not included in subsection (2), regardless of adjudication, is subject to:
(a) A 15-year disqualifying period for all felonies involving moral turpitude which are not specifically included in the permanent bar contained in subsection (2).
(b) A 7-year disqualifying period for all felonies to which neither the permanent bar in subsection (2) nor the 15-year disqualifying period in paragraph (a) applies. Notwithstanding subsection (4), an applicant who served at least half of the disqualifying period may reapply for a license if, during that time, the applicant has not been found guilty of or has not pleaded guilty or nolo contendere to a crime. The department may issue the applicant a license on a probationary basis for the remainder of the disqualifying period. The applicant's probationary period ends at the end of the disqualifying period.
(c) A 7-year disqualifying period for all misdemeanors directly related to the financial services business.

(4) The department shall adopt rules to administer this section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant's criminal history. The rules shall provide for mitigating and aggravating factors. However, mitigation may not result in a period of disqualification of less than 7 years and may not mitigate the disqualifying periods in paragraphs (3)(b) and (c).

(5) For purposes of this section, the disqualifying periods begin upon the applicant's final release from supervision or upon completion of the applicant's criminal sentence. The department may not issue a license to an applicant unless all related fines, court costs and fees, and court-ordered restitution have been paid.

(6) After the disqualifying period has expired, the burden is on the applicant to demonstrate that the applicant has been rehabilitated, does not pose a risk to the insurance-buying public, is fit and trustworthy to engage in the business of insurance pursuant to s. 626.611(1)(g), and is otherwise qualified for licensure.

(7) Notwithstanding subsections (2) and (3), upon a grant of a pardon or the restoration of civil rights pursuant to chapter 940 and s. 8, Art. IV of the State Constitution with respect to a finding of guilt or a plea under subsection (2) or subsection (3), such finding or plea no longer bars or disqualifies the applicant from licensure under this chapter unless the clemency specifically excludes licensure in the financial services business; however, a pardon or restoration of civil rights does not require the department to award such license.

(9) Section 112.011 does not apply to any applicants for licensure under the Florida Insurance Code, including, but not limited to, agents, agencies, adjusters, adjusting firms, or customer representatives.

Section 626.611, Florida Statutes, including but not limited to the following provisions:

(a) Lack of one or more of the qualifications for the license or appointment as specified in this code.

(n) Having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Department of Financial Services ("Department") pursuant to sections 120.569 and 120.57, Florida Statutes, and Rule 28-106, Florida Administrative Code. The proceeding request must be in writing, signed by you, and must be filed with the Department within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and a petition for administrative hearing are both required as part of your written response.

The request must be filed with DFS Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. The response may be submitted electronically at DFSAgencyClerk@myfloridacfo.com. Your written response must be received by the Department no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

FAILURE TO ENSURE THAT YOUR WRITTEN RESPONSE IS RECEIVED BY THE DEPARTMENT WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND THE DENIAL OF YOUR APPLICATION SHALL BE FINAL

If a proceeding is requested and there is no dispute of material fact, the provisions of section 120.57(2), Florida Statutes, apply. In this regard, you may submit oral or written evidence in opposition to the action taken by the Department or a written statement challenging the grounds upon which the Department has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

However, if you dispute material facts which are the basis for the Department's action, you must request an adversarial proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held before a State administrative law judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Department will request that the hearing be conducted in Tallahassee, Florida.

If you request a proceeding, whether or not you dispute issues of material fact, you must provide information that complies with the requirements of Rule 28-106.201, Florida Administrative Code. Specifically, your response must contain:

a. The name and address of each agency affected and each agency's file or identification number, if known;
b. The name, address, and telephone number of the petitioner (For the purpose of requesting hearing in this matter, you are the "petitioner".); the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
c. A statement of when and how the petitioner received notice of the agency decision;
d. A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
e. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
f. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
g. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

If a hearing of any type is requested, you have the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. All prior oral communication or correspondence in this matter shall be considered freeform agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above. Mediation of this matter pursuant to section 120.573, Florida Statutes, is not available.

If you fail to timely request a hearing, this notice will be deemed an effective denial twenty-one (21) days after the date hereof, and will be so recorded in the Department's and the National Association of Insurance Commissioners (NAIC) records, without further notice or communication to you.

Sincerely,
Bureau of Licensing
Enclosures

EXHIBIT 8

Administrative Complaint by State of Florida, dated April 4, 2024

Florida dbpr Department of Business & Professional Regulation

Office of the General Counsel
Al Cheneler, Chief Attorney
Division of Real Estate
2601 Blair Stone Road
Tallahassee, FL 32399-2202
Phone: 850.717.1193 • Fax: 850.617.4412

Melanie S. Griffin, Secretary

Ron DeSantis, Governor

April 4, 2024

Thomas Leroy Witherby
5921 N. Lamp Post Drive
Beverly Hills, FL 34465

Re: DBPR v. Thomas Leroy Witherby
Case No. 2023-057938

Dear Thomas Leroy Witherby:

Please review the enclosed Administrative Complaint, which charges you with violations of license law.

The Administrative Complaint describes the alleged violations and will be handled by the attorney that signed it. In addition, attached to the Administrative Complaint, you will find an Election of Rights form, stating your rights and three options available to you.

Please return the election of rights form within twenty-one days from the date of receipt. If you fail to respond in writing within twenty-one days of receipt of this letter, you may be deemed in default. In such event, the Department will present this matter to the Florida Real Estate Appraisal Board, which could result in disciplinary action against you.

Sincerely,

/s/Mackenzie Medich
Mackenzie Medich
Deputy Chief Attorney
Florida Bar No. 289198
Office of the General Counsel
2601 Blair Stone Rd.
Tallahassee, Florida 32399
Telephone: 850.717.1722
Mackenzie.medich@myfloridalicense.com

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

ELECTION OF RIGHTS

DBPR v. Thomas Leroy Witherby — Case No. 2023-057938

PLEASE CHECK ONLY ONE OF THE THREE OPTIONS.

Option (1) ☐ **I do not dispute the allegations** of material fact in the Administrative Complaint. I wish to submit oral and written evidence in mitigation at a hearing pursuant to section 120.57(2), Florida Statutes ("informal hearing") and that this oral and written evidence be considered before any penalty and fines are imposed.

Option (2) ☐ **I do dispute the allegations** of material fact in the Administrative Complaint. This is a petition for a hearing involving disputed material facts pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes, ("formal hearing") before an Administrative Law Judge of the Division of Administrative Hearings. **I specifically dispute the following paragraphs in the Administrative Complaint** (attach extra pages or write on the back if needed):

_____

_____

_____

In addition to the above election for formal hearing, if you wish to enter into settlement negotiations, check the box below:

☐ Section 120.569(2)(a), Florida Statutes, requires the Department to send this case to the Division of Administrative Hearings (DOAH) for a formal hearing within 15 days after receiving your Election of Rights. I am interested in settling this case and waive the 15-day requirement in order to enter into settlement negotiations with the Department.

Option (3) ☐ **I do not dispute the allegations** of material fact in the Administrative Complaint and **waive my right** to any form of hearing. I request that a Final Order imposing a penalty and fines be entered in this case.

THIS IS A **LEGALLY BINDING DOCUMENT**. SEEK LEGAL ADVICE BEFORE SIGNING IF YOU DO NOT FULLY UNDERSTAND THE TERMS.

Thomas Leroy Witherby	ATTORNEY OR QUALIFIED REPRESENTATIVE
Street Address	Street Address (where service shall be made)
City State Zip	City State Zip
Telephone Number Facsimile Number (if any)	Telephone Number Facsimile Number (if any)
E-mail	E-mail
Signature Date	Signature Date

THE ELECTION OF RIGHTS FORM AND ANY ATTACHMENTS SHOULD BE RECEIVED BY THE DEPARTMENT WITHIN 21 DAYS AND MAILED TO:

ATTN: Service of Process Unit
Office of the General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road, Tallahassee, FL 32399-2202
Telephone: 850.488.0062 Fax: 850.488.5700

Updated 9/20/2017

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

EXPLANATION OF THE ELECTION OF RIGHTS

Please read the Administrative Complaint before choosing one of the three options. The Election of Rights is a **legally binding** document. Consult an attorney or call the Department's attorney named in the cover letter if you do not understand your options.

You can only select **ONE** of the options numbered (1), (2) and (3) on the Election of Rights form. You must sign the form. The form must be **received** by the Department at the address at the bottom of the form within 21 days after the date **you receive** the complaint.

The three options are:

1. Check option (1) if you **do not dispute** any material fact alleged in the Administrative Complaint. You will be given a hearing pursuant to section 120.57(2), Florida Statutes ("informal hearing") and have the opportunity to present written and oral evidence in mitigation at the informal hearing.

2. Check option (2) if you **do dispute** any material fact alleged in the Administrative Complaint. This is considered a petition for an evidentiary administrative hearing ("formal hearing") pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes, and requires the Department to send this case to the Division of Administrative Hearings (DOAH) within 15 days of your completed petition requesting a formal hearing. This election is made by checking the box marked (2) on the Election of Rights. Pursuant to Rule 28-106.201, F.A.C., you must also state which material fact(s) alleged in the Administrative Complaint you dispute. Use the space provided on the form and attach additional pages or use the back of the form if needed.

> **After** electing option (2) explained above and **regardless** of whether you dispute any material fact alleged in the Administrative Complaint, you may **also** request the opportunity to discuss settlement of the case pursuant to section 120.57(4), Florida Statutes.

3. Check option (3) if you **do not dispute** any material fact and waive your right to any form of hearing. This means that the Department will recommend a penalty on the charges set forth in the Administrative Complaint without input from you.

If the Department does not **receive** your Election of Rights within **21** days after you **receive** the Administrative Complaint, this will be considered a waiver of your right to elect any form of hearing and a Final Order may be entered against you imposing a penalty and fines.

You must let the Department know if your mailing address changes.

THE ELECTION OF RIGHTS FORM AND ANY ATTACHMENTS SHOULD BE RECEIVED BY THE DEPARTMENT WITHIN 21 DAYS AND MAILED TO:

ATTN: Service of Process Unit
Office of the General Counsel
Department of Business and Professional Regulation
2601 Blair Stone Road, Tallahassee, FL 32399-2202
Telephone: 850.488.0062 Fax: 850.488.5700

Updated 9/20/2017

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: Evette Lawson-Proctor
Date: 4/1/2024
File #:

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,

Petitioner,

v. Case No. 2023-057938

THOMAS LEROY WITHERBY,

Respondent.

_____/

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Business and Professional Regulation ("Petitioner") files this Administrative Complaint before the Florida Real Estate Appraisal Board, against Respondent, THOMAS LEROY WITHERBY ("Respondent"), and alleges:

1. Petitioner is the state agency charged with regulating the practice of real estate appraisal pursuant to Section 20.165, Florida Statutes, and Chapters 120, 455, and 475 of the Florida Statutes.

2. At all times material to this Complaint, Respondent was licensed as a state certified residential real estate appraiser in the State of Florida, having been issued license number RD 8455.

3. Respondent's address of record with Petitioner is 5921 N. Lamp Post Dr., Beverly Hills, Florida 34465.

4. On or about October 10, 2023, the Nevada Commission of Appraisers of Real Estate issued a final order ("Final Order") imposing discipline against Respondent's real estate appraisal license A.0001528-CR.

5. Per the Final Order, Respondent's Nevada real estate appraisal license is revoked.

COUNT ONE

6. This is an action for violation of Section 475.624(6), Florida Statutes.

7. Petitioner re-alleges and incorporates by reference the allegations set forth in paragraphs one (1) through five (5).

8. Section 475.624(6), Florida Statutes, subjects a real estate appraiser licensee to discipline if s/he "[h]as had a registration, license, or certification as an appraiser revoked, suspended, or otherwise acted against; has been disbarred; has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States; or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States."

9. Based on the foregoing, Respondent violated Section 475.624(6), Florida Statutes.

WHEREFORE, Petitioner respectfully requests the Board of Real Estate Appraisal enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine,

issuance of a reprimand, placement of Respondent on probation, assessment of costs, corrective action and/or any other relief that the Board deems appropriate.

SIGNED this 21st day of March, 2024.

Melanie S. Griffin, Secretary
Department of Business and
Professional Regulation

By: /s/Mackenzie K. Medich

Mackenzie K. Medich
Deputy Chief Attorney
Division of Real Estate
Florida Bar No. 289198
Department of Business and
Professional Regulation
Office of the General Counsel
2601 Blair Stone Road
Tallahassee, FL 32399-2202
(850)717-1722
Mackenzie.Medich@MyFloridaLicense.com

PC Found: 03/21/2024
PC Found By: Wilson/Rabin

NOTICE OF RIGHTS

PLEASE BE ADVISED that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

PLEASE BE FURTHER ADVISED that Respondent has the right to request a hearing to be conducted in accordance with sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses, and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to section 455.227(3)(a), Florida Statutes, the Board, or the Department when there is no Board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time, against Respondent in addition to any other discipline imposed.