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.

ARTURO VALDOVINOS JR. (License No. A.0005988-RES),

Respondent.

Case No. 2022-382

FILED

SEP 04 2024

NEVADA COMMISSION OF APPRAISERS

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 ARTURO VALDOVINOS JR. ("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 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. On or about June 7, 2022, the Division received a complaint from the homeowner alleging Respondent committed an appraisal report as a manufactured home instead of a single-family home and used comparable sales ("Comps") that were not converted to manufactured homes. *00002 – 00003.*

2. The Division commissioned a Standard 3 Review of the underlying appraisal performed by the Respondent. *000073.*

3. The Standard 3 Reviewer found the Respondent's appraisal report did not meet a total of nineteen (19) USPAP Standards. *00102.*

4. Given the Respondent's prior discipline history (Case No. 2007-1681, heard by the Appraisal Advisory Review Committee ("AARC"), whereby the Respondent received a 15 hr. USPAP course, 30 hr. Basic Appraisal Procedures Course, and a 15 hr. Report Writing Course), and the current Case No. 2022-382 which contains possible ethics rule, competency rule, and several standards rule violations, the Division determined this matter should be heard by the Nevada Commission of Appraisers of Real Estate ("Commission"). *00129.*

FACTUAL ALLEGATIONS

1. On or about April 28, 2022, the Respondent prepared a 1004C manufactured home appraisal ("Appraisal Report") for client Clear Capital ("Intended User") on 1314 Monterey Drive, Boulder City, NV 89005-2223 ("Subject"). *00024.*

2. The Subject was a manufactured home converted to real property. *00106, and 00123.*

3. On or about June 21, 2022, Respondent submitted his rebuttal letter to the Division, admitting he communicated assignment results directly to the homeowner. *00022 – 00023.*

4. Yet, the Respondent's workfile did not include any documentation that the client provided permission to communicate assignment results to the homeowner. *00123.*

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5. The Appraisal Report stated: "GLA was adjusted at $30.00 per square foot for differences over 100sf. Carport adjustments were made at $3,000 for this amenity.". *00031.*

6. The Appraisal Report also stated: "The adjustments were estimated after historic paired sales analysis and market extraction" and "were based on the market's reaction to these amenities." *00031.*

7. There were also adjustments for lot size, age, condition, and garage. *00028, and 00030.*

8. But there was no discussion regarding these adjustments. *00122.*

9. Further, there was no data in the appraisal report, or workfile, indicating the adjustments were extracted from the market (i.e. no paired sales analysis). *00122.*

10. In the Appraisal Report's Cost Approach section, support for the opinion of site value provided: "Please see attached addendum." *00122.*

11. Further, under the Cost Approach grid, the summary stated: "Land values have been derived using the allocation method" and the source of the cost data was identified as "Marshall & Swift". *00122.*

12. Yet, there was no data, information or documentation in the Appraisal Report, or workfile, to support land value (i.e. allocation analysis), dwelling costs, or depreciation in the cost approach (i.e. Marshall & Swift data). *00123.*

13. Comps 1 & 2 were not converted to real property. *00107 – 00108.*

14. The Clark County Assessor revealed Comps 1 & 2 were only for the lot. *00107 – 00108.*

15. In his rebuttal letter, Respondent stated: "I was under the impression that the property was converted into a stick-built home prior to the appraisal", even though there is no method to convert a manufactured home into a stick-built home. *00022, and 00123.*

16. Comp 1's MLS Listing indicated the sales price was $275,000. *00111.*

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17. However, public records indicated it was not converted and a sales price of $220,000. *00107, and 00112 – 00113.*

18. Therefore, the sales price in the MLS Listing appears to have been arrived at by adding the price of the lot and manufactured house separately. *00124.*

19. Which contradicts the Appraiser's Certifications, Item #8 which states: "I have not used comparable sales that were the result of combining a land sale with the contract purchaser price of a home that has been built or will be built on the land." *00033.*

20. The Appraisal Report's HUD Data Plate section reported: "The HUD Data Plate was removed from the subject property. Data source taken from Tax Records." *00026.*

21. Which contradicts the Appraisal Report's exterior photos which included pictures of the HUD Data plate. *00048.*

22. Then, the Appraisal Report's Additional Comments provided verbiage not applicable to the subject because it is obviously a different location. *00029, and 00125.*

23. Within the Appraisal Report's Sales Comparison Analysis Section, under the Analysis of prior sale or history subsection, it represented: "Listing #1 is a current listing that is listed (MLS #2325263) for $212,500. The listing has been on the market for 20DOM. It was adjusted inferior for lot size and age." *00030.*

24. But the MLS number was for a mobile home located not in the subject's Boulder City market area and sold in October of 2021. *00125.*

25. Nor is it applicable to Comp 4, which is an active listing used in the Appraisal Report. *00125.*

26. The Summary of Sales Comparison Approach subsection included verbiage that was not applicable because the purpose of the Appraisal Report was not for a sales transaction. *00030, and 00125 – 00126.*

27. The Appraisal Report's Comment Addendum referenced Covid-19 which was not relevant in April of 2022. *00031.*

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28. Within three (3) years of the Subject's effective date, public records indicated a prior sale on or about December 9, 2019, for $205,710.00. *00116 – 00121.*

29. But there was no indication in the Appraisal Report that all subject sales and transfers, within the three years prior to the effective date, were analyzed. *00127.*

30. Accordingly, on or about June 25, 2024, the Division noticed the Respondent that it intended to proceed with formal disciplinary action before this Commission. *00130 – 00131.*

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 Respondent violated the USPAP ETHICS RULE by stating a scope of work was performed in his Appraisal Report without any support in the workfile so there is no proof that the work was actually performed, and that is intentionally misleading.

The Respondent further violated the USPAP ETHICS RULE by making adjustments for lot size, age, condition and garage without any discussion regarding those adjustments, and that is intentionally misleading.

The Respondent also violated the USPAP ETHICS RULE by committing communications of confidential nature with the homeowners.

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

The Respondent violated USPAP RECORD KEEPING RULE because his workfile lacked data indicating the adjustments were extracted from the market.

The Respondent also violated USPAP RECORD KEEPING RULE by failing to include support in his workfile for land value, dwelling costs, or depreciation in the Cost Approach.

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).

Third Violation

The Respondent violated USPAP COMPETENCY RULE by failing to demonstrate familiarity with this specific type of property and choosing inappropriate comps.

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).

Fourth Violation

The Respondent violated USPAP SCOPE OF WORK RULE by failing to properly identify the subject property and considering inapplicable comps.

The Respondent further violated USPAP SCOPE OF WORK RULE by making arbitrary adjustments on market data.

The Respondent also violated USPAP SCOPE OF WORK RULE by failing to include support in his workfile for land value, dwelling costs, or depreciation in the Cost Approach.

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

The Respondent violated Standards Rule 1-1(a) by failing to employ recognized methods and techniques that are necessary to produce a credible appraisal in his report with shortcomings committed in his arbitrary adjustments, improper identification of the Subject and use of inapplicable comps, and failure to analyze comparable sales.

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

The Respondent violated Standards Rule 1-1(c) by making a series of careless and negligent erroneous statements throughout his Appraisal Report.

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).

Seventh Violation

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

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).

Eighth Violation

The Respondent violated Standards Rule 1-5(b) for failing to analyze the Subject's prior sale which occurred within three (3) years prior to the effective date.

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).

Ninth Violation

The Respondent violated Standards Rule 2-1(a) by stating a scope of work was performed in his Appraisal Report that was not actually performed, is misleading.

The Respondent further violated Standards Rule 2-1(a) by failing to discuss adjustments for lot size, age, condition and garage, is misleading.

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The Respondent also violated Standards Rule 2-1(a) by failing to provide data indicating the adjustments were extracted from the market, is misleading.

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).

Tenth Violation

The Respondent violated Standards Rule 2-1(b) without market derived adjustments, there is insufficient information to enable the intended users to understand if value is credible and reliable.

The Respondent further violated Standards Rule 2-1(b) without using like kind comps in the sales grid, there is insufficient information to enable the intended users to understand if value is credible and reliable.

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).

Eleventh Violation

The Respondent violated Standards Rule 2-2(a)(viii) for failing to summarize the scope of work used to develop the appraisal in terms of choosing the most applicable comps, analyzing comp prices nor any indication adjustments were extracted from the market.

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).

Twelfth Violation

The Respondent violated Standards Rule 2-2(a)(x), specifically subsections (1) and (5), as incorporated by the Eleventh Violation, for lack of explanation and support for adjustments, analyzing sales comparables, and their correct sales prices.

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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 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 October 8-10, 2024, 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 and 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 October 8-10, 2024. 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 3 day of September, 2024.

NEVADA REAL ESTATE DIVISION

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

DATED the 30th day of August, 2024.

AARON D. FORD
Attorney General

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

Attorney for Real Estate Division