

FILED

MAR 20 2015

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *Rubén* *Alvarez*

JOSEPH R. DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. 2014-4068

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

MARK D. FLEYSHER,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("DIVISION"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Kimberly A. Arguello, Senior Deputy Attorney General, hereby notifies RESPONDENT MARK D. FLEYSHER ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("COMMISSION") which hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 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 an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

Respondent MARK D. FLEYSHER was at all relevant times mentioned in this Complaint licensed as a Broker and Property Manager by the Division under license numbers B.014293.LLC and PM.0164283.BKR and is therefore subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

FACTUAL ALLEGATIONS

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2 1) RESPONDENT, at the relevant times mentioned in this Complaint, was licensed
3 as a Broker, license number B.014293.LLC and Property Manager, license number
4 PM.0164283.BKR from July 26, 2010 through September 28, 2012 with The Jack Conley
5 Realty Group and from September 28, 2012 to current with Deluxe Realty, and is currently in
6 active status and subject to the jurisdiction of the Division and the provisions of NRS chapter
7 645 and NAC chapter 645.

8 2) Respondent is the broker and property manager for Deluxe Realty dba Eagle 1
9 Property Management.

10 3) Eagle 1 Property Management has the Client Operating Trust Account ending
11 3778 at Nevada State Bank.

12 4) In addition to Respondent, Gregory Fleysher is a signor on the Client Operating
13 Trust Account.

14 5) Gregory Fleysher does not hold a real estate license issued by the Division.

15 6) Each month, for the seven months between April and October 2014, a monthly
16 analysis service charge was deducted from the Client Operating Trust Account in an amount
17 ranging from \$27.50 to \$88.50.

18 7) Between March 25, 2014 and September 26, 2014, Gregory Fleysher signed
19 fifteen checks written from the Client Operating Trust Account for personal expenses such as
20 medical insurance, an IRS payment, mortgage and other loan payments, and day care in the
21 amount of \$18,072.80.

22 8) On September 4, 2014 Gregory Fleysher wrote himself a check for \$800 and on
23 September 5, 2014 he wrote himself another check in the amount of \$6,000 from the Client
24 Operating Trust Account.

25 9) In September 2014, Respondent signed two checks written from the Client
26 Operating Trust Account for the personal expenses of medical insurance and day care as well
27 as a check to the Division.
28

1 10) The total amount converted from the Client Operating Trust Account between
2 March and September 2014 is \$26,880.80.

3 11) Eagle 1 Property Management also has a Trust Deposit Account ending 3786.

4 12) Gregory Fleyscher is also a signor on the Trust Deposit Account.

5 **VIOLATIONS**

6 RESPONDENT has committed the following violations of law:

7 13) Respondent violated NAC 645.655(5) for allowing a non-licensed person to be a
8 signor on the Client Operating Trust Account.

9 14) Respondent violated NAC 645.655(5) for allowing a non-licensed person to be a
10 signor on the Trust Deposit Account.

11 15) Respondent committed seven violations of NRS 645.630(1)(h) for paying the
12 monthly analysis service charge from the Client Operating Trust Account.

13 16) Respondent committed twenty violations of NRS 645.630(1)(h) for converting his
14 clients' money held in trust for his own use.

15 **DISCIPLINE AUTHORIZED**

16 17) Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to
17 impose an administrative fine of up to \$10,000 per violation against RESPONDENT and
18 further to suspend, revoke or place conditions on the license of RESPONDENT.

19 18) Additionally, under NRS Chapter 622, the Commission is authorized to impose
20 costs of the proceeding upon Respondent, including investigative costs and attorney's fees, if
21 the Commission otherwise imposes discipline on Respondent.

22 19) Therefore, the Division requests that the Commission take such disciplinary
23 action as it deems appropriate under the circumstances.

24 **NOTICE OF HEARING**

25 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
26 Administrative Complaint against the above-named Respondent in accordance with Chapters
27 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative
28 Code.

1 **THE HEARING WILL TAKE PLACE** on April 21, 2015 commencing at 9:00 a.m., or
2 as soon thereafter as the Commission is able to hear the matter, and each day
3 thereafter commencing at 9:00 a.m. through April 23, 2015, or earlier if the business of
4 the Commission is concluded. The Commission meeting will be held on April 21, 2015,
5 at the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue,
6 Room 2450, Las Vegas, Nevada 89101. The meeting will continue on April 22, 2015, at
7 the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue, Room
8 2450, Las Vegas, Nevada 89101, commencing at 9:00 a.m., and on April 23, 2015,
9 should business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501
10 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104.

11 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
12 same time as part of a regular meeting of the Commission that is expected to last from
13 April 21 through April 23, 2015, or earlier if the business of the Commission is
14 concluded. Thus, your hearing may be continued until later in the day or from day to
15 day. It is your responsibility to be present when your case is called. If you are not
16 present when your hearing is called, a default may be entered against you and the
17 Commission may decide the case as if all allegations in the complaint were true. If you
18 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
19 4074.

20 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an
21 open meeting under Nevada's open meeting law, and may be attended by the public. After
22 the evidence and arguments, the commission may conduct a closed meeting to discuss your
23 alleged misconduct or professional competence. A verbatim record will be made by a certified
24 court reporter. You are entitled to a copy of the transcript of the open and closed portions of
25 the meeting, although you must pay for the transcription.

26 As the Respondent, you are specifically informed that you have the right to appear and
27 be heard in your defense, either personally or through your counsel of choice. At the hearing,
28 the Division has the burden of proving the allegations in the complaint and will call witnesses

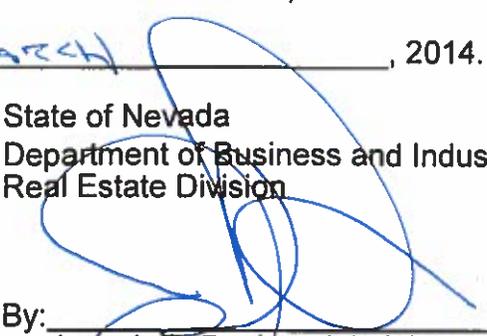
1 and present evidence against you. You have the right to respond and to present relevant
2 evidence and argument on all issues involved. You have the right to call and examine
3 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant
4 to the issues involved.

5 You have the right to request that the Commission issue subpoenas to compel
6 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
7 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
8 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
9 233B, and NAC 645.810 through 645.875.

10 The purpose of the hearing is to determine if the Respondent has violated NRS 645
11 and/or NAC 645 and if the allegations contained herein are substantially proven by the
12 evidence presented and to further determine what administrative penalty is to be assessed
13 against the RESPONDENT, if any, pursuant to NRS 645.235, 645.633 and or 645.630.

14 DATED this 21st day of MARCH, 2014.

15 State of Nevada
16 Department of Business and Industry
17 Real Estate Division

18 By: 
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21 ADAM PAUL LAXALAT
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