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REAL ESTATE COMMISSION
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BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

JOSEPH R. DECKER, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. DEVON GIBBS, Respondent.	**Case No. 2015-1968** **COMPLAINT AND NOTICE OF HEARING**

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 Keith E. Kizer, Deputy Attorney General, hereby notifies RESPONDENT DEVON GIBBS ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission") which 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 was at all relevant times mentioned in this Complaint licensed by the Division as a Broker under license number B.1001592.LLC, and as a Property Manager under permit number PM.0166337.BKR, and is therefore subject to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC Chapter 645.

FACTUAL ALLEGATIONS

1. RESPONDENT was licensed as a Salesperson, license number S.0171413.LLC, from February 16, 2012 until June 4, 2015, when he became licensed as a Broker.

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2. RESPONDENT has been licensed as a Broker, license number B.1001592.LLC, since June 4, 2015, and as a Property Manager, permit number PM.0166337.BKR, since January 16, 2015, and is in active status.

3. Irina Stemer ("Stemer") owns real property at 4425 Sunflower Avenue, Las Vegas, Nevada ("Property").

4. In June 2015, Stemer was residing at the Property but spoke with RESPONDENT about renting the Property.

5. On or about June 23, 2015, Stemer and RESPONDENT entered into a Residential Property Management Agreement ("Property Management Agreement").

6. At that time, RESPONDENT gave Stemer a Duties Owed form, on which RESPONDENT listed his license number as 229213.

7. The Property Management Agreement provides that the minimum acceptable rent is $2,300 per month.

8. Around that same time, Stemer advertised the Property on Craigslist, seeking a tenant for the Property.

9. The Craigslist advertisement stated the Property would be available on July 15, 2015.

10. On or about July 3, 2015, Stemer provided RESPONDENT with the name and phone number of someone who had responded to Stemer's Craigslist advertisement ("Tenants").

11. Stemer asked RESPONDENT to show the Tenants the Property as Stemer was out of town at the time.

12. On or about July 5, 2015, RESPONDENT informed Stemer that the Tenants wanted to lease the Property if certain remodeling was done to the Property.

13. Stemer replied to RESPONDENT that she would not commit to any remodeling, and the Property would be rented only "as is."

14. Stemer further informed RESPONDENT that she was not interested in renting the Property to anyone not satisfied with the Property "as is."

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15. On or about July 6, 2015, RESPONDENT signed a Residential Lease Agreement ("Lease Agreement") with the Tenants.

16. Despite Stemer's direction, the Lease Agreement provides for (1) rent at $2,000 per month, (2) the painting of the exterior of the Property; (3) the installation of flooring in the Property's guest house; (4) the remodeling of the Property's kitchen; (5) the removal of the Property's patio; and (6) "all repairs in" the Property's guest house.

17. RESPONDENT listed his license number as 229213 on the Lease Agreement.

18. On or about July 7, 2015, after reviewing the Lease Agreement, Stemer informed RESPONDENT that the Lease Agreement was unacceptable and needed to be corrected.

19. On or about that same day, RESPONDENT gave the Tenants access to the Property, and allowed them to move in.

20. At that time, Stemer still resided at the Property and had personal belongings at the Property.

21. On or about July 13, 2015, Stemer filed a Statement of Fact with the Division complaining about RESPONDENT's conduct.

22. On or about July 22, 2015, Stemer filed another Statement of Fact with the Division complaining about RESPONDENT's conduct.

VIOLATIONS

RESPONDENT has committed the following violations of law:

23. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(1) and/or (6), by leasing the Property earlier than authorized by Stemer.

24. RESPONDENT violated NRS 645.252(2) by leasing the Property for a lower monthly rent than set forth in the Property Management Agreement.

25. RESPONDENT violated NRS 645.630(1)(b) by informing the Tenants that Stemer had agreed to remodel the Property as requested by the Tenants.

26. RESPONDENT violated NRS 645.633(1)(h) and/or (i), pursuant to NAC 645.605(6), by committing Stemer to remodel the Property without her authorization.

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27. RESPONDENT violated NRS 645.630(1)(a) by listing a license number other than his own on the Rental Agreement.

28. RESPONDENT violated NRS 645.630(1)(a) by listing a license number other than his own on the Duties Owed form.

DISCLIPLINE AUTHORIZED

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

30. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.

31. Therefore, the Division requests that the Commission take such disciplinary action as it deems appropriate under the circumstances.

NOTICE OF HEARING

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

THE HEARING WILL TAKE PLACE on December 16, 2015 commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through December 17, 2015, or earlier if the business of the Commission is concluded. The Commission meeting will be held on December 16, 2015, at the Nevada Department of Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, NV 89104. The meeting will continue on December 17, 2015, should business not be concluded, starting at 9:00 a.m. at the Henderson City Hall, Council Chambers, 240 South Water Street, Henderson, Nevada 89015.

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STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same time as part of a regular meeting of the Commission that is expected to last from December 16 through December 17, 2015, or earlier if the business of the Commission is concluded. 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 hearing 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 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-4074.

YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, 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. A verbatim record will be made by a certified court reporter. 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 the request, you may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

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

DATED this 10th day of November, 2015.

State of Nevada
Department of Business and Industry
Real Estate Division

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