

FILED

DEC 02 2014

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

REAL ESTATE COMMISSION

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

Case No. REN 15-08-07-012

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

JOSHUA FONTENOT,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("DIVISION"), by and through its counsel, Catherine Cortez Masto, Attorney General of the State of Nevada, and Keith E. Kizer, Deputy Attorney General, hereby notifies RESPONDENT JOSHUA FONTENOT ("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 JOSHUA FONTENOT was at all relevant times mentioned in this Complaint licensed as a real estate broker-salesperson under license number BS.0144089.MGR, or as a real estate salesperson under license number S.0076390, and is therefore subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

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1 **FACTUAL ALLEGATIONS**

2 **GENERAL FACTUAL ALLEGATIONS**

3 1. RESPONDENT, at the relevant times mentioned in this Complaint, has been
4 licensed as a real estate broker-salesperson, license number BS.0144089.MGR, since April
5 18, 2013, was licensed as a real estate salesperson, license number S.0076390, from March
6 29, 2010 to April 18, 2013, and is currently in active status and subject to the jurisdiction of the
7 Division and the provisions of NRS chapter 645 and NAC chapter 645.

8 2. RESPONDENT was associated with Marshall Realty at the relevant times
9 mentioned in this Complaint.

10 3. Marshall Carrasco ("Carrasco") has been licensed as a real estate broker,
11 license number B.1000579.INDV, since January 27, 2010, and is the broker for Marshall
12 Realty.

13 4. With respect to properties he and/or Marshall Realty were contracted to sell,
14 RESPONDENT facilitated potential buyers in return for the buyers using Marshall Realty in
15 their attempts to buy those properties.

16 5. RESPONDENT's actions resulted in many dual or triple agencies for Marshall
17 Realty.

18 **FOX RUN ROAD**

19 6. On or about August 12, 2011, Patricia Lutsch ("Lutsch") entered into an
20 Exclusive Right to Sell Contract, which engaged Marshall Realty to list and sell real property
21 located at 1750 Fox Run Road, Reno, Nevada (the "Fox Run Property").

22 7. Marshall Realty had Lutsch sign a Multiple Listing Service ("MLS") waiver.

23 8. On or about May 1, 2012, Chris McClintock ("McClintock") offered to buy the Fox
24 Run Property, and Lutsch accepted the offer.

25 9. RESPONDENT acted as the agent for both Lutsch and McClintock.

26 10. RESPONDENT did not input the Fox Run Property into the MLS until June 3,
27 2012, when he listed the property as sold.

28 ...

1 11. On or about June 7, 2012, the sale on the Fox Run Property closed with a final
2 purchase price of \$133,500, resulting in RESPONDENT receiving both sides of the sales
3 commission.

4 12. On or about December 27, 2012, McClintock resold the Fox Run Property for
5 \$245,000, approximately \$111,500 more than his purchase price.

6 **TALLGRASS DRIVE**

7 13. On or about January 26, 2012, Jenni Currie ("Currie") entered into an Exclusive
8 Right to Sell Contract, which engaged Marshall Realty to list and sell real property located at
9 7498 Tallgrass Drive, Reno, Nevada (the "Tallgrass Drive Property").

10 14. Carrasco was Currie's agent.

11 15. On or about February 13, 2012, Doug Edwards ("Edwards") offered to buy the
12 Tallgrass Drive Property, and Currie accepted the offer.

13 16. RESPONDENT was Edwards' agent.

14 17. Marshall Realty did not input the Tallgrass Drive Property into the MLS until
15 February 14, 2012, when it listed the property as sold.

16 18. On or about May 9, 2012, the sale on the Tallgrass Drive Property closed for a
17 final purchase price of \$85,000, resulting in Marshall Realty, via RESPONDENT and
18 Carrasco, receiving both sides of the sales commission.

19 **SHENANDOAH**

20 19. On or about September 29, 2011, Melvin Deangelis ("Deangelis") entered into
21 an Exclusive Right to Sell Contract, which engaged Marshall Realty to list and sell real
22 property located at 10265 Shenandoah, Reno, Nevada (the "Shenandoah Property") for a list
23 price of \$129,900.

24 20. Marshall Realty had Deangelis sign an MLS waiver.

25 21. Carrasco was Deangelis's agent.

26 22. On or about October 13, 2011, Chester Dean Randall ("Randall") offered to buy
27 the Shenandoah Property for \$129,900.

28 23. RESPONDENT was Randall's agent.

1 24. On or about November 14, 2011, Deangelis accepted Randall's offer.

2 25. Marshall Realty did not input the Shenandoah Property into the MLS until
3 November 1, 2011, when it listed the property as sold.

4 26. On or about February 24, 2012, the sale on the Shenandoah Property closed,
5 resulting in Marshall Realty, via RESPONDENT and Carrasco, receiving both sides of the
6 sales commission.

7 27. On or about July 12, 2013, Randall resold the Shenandoah Property for
8 \$160,140, approximately \$30,240 more than his purchase price.

9 **BANDANA WAY**

10 28. On or about October 12, 2012, Johann and Jun Anderson (the "Andersons")
11 entered into an Exclusive Right to Sell Contract, which engaged Marshall Realty to list and sell
12 real property located at 9960 Bandana Way, Reno, Nevada (the "Bandana Way Property") for
13 a list price of \$180,000.

14 29. Marshall Realty had the Andersons sign an MLS waiver.

15 30. Carrasco was the Andersons' agent.

16 31. On or about October 26, 2012, McClintock offered to buy the Bandana Way
17 Property for \$180,000.

18 32. RESPONDENT was McClintock's agent.

19 33. On or about October 29, 2012, the Andersons accepted McClintock's offer.

20 34. Marshall Realty did not input the Bandana Way Property into the MLS until
21 December 8, 2012, when it listed the property as short sale pending.

22 35. On or about August 9, 2013, the sale on the Bandana Way Property closed,
23 resulting in Marshall Realty, via RESPONDENT and Carrasco, receiving both sides of the
24 sales commission.

25 36. On or about November 1, 2013, McClintock resold the Bandana Way Property
26 for \$299,000, approximately \$119,000 more than his purchase price.

27 37. For that sale, RESPONDENT was McClintock's agent, so RESPONDENT
28 received the seller's commission on that sale.

1 **DESERT LAKE DRIVE**

2 38. On or about December 10, 2012, Linda Lafond ("Lafond") entered into an
3 Exclusive Right to Sell Contract, which engaged Marshall Realty to list and sell real property
4 located at 17320 Desert Lake Drive, Reno, Nevada (the "Desert Lake Property").

5 39. Carrasco was Lafond's agent.

6 40. On or about December 10, 2012, McClintock offered to buy the Desert Lake
7 Property, and Lafond accepted the offer.

8 41. RESPONDENT was McClintock's agent.

9 42. Marshall Realty did not input the Desert Lake Property into the MLS until
10 December 17, 2012, when it listed the property as short sale pending.

11 43. On or about April 17, 2013, the sale on the Desert Lake Property closed for a
12 final purchase price of \$100,000, resulting in Marshall Realty, via RESPONDENT and
13 Carrasco, receiving both sides of the sales commission.

14 44. On or about July 24, 2013, McClintock resold the Desert Lake Property for
15 \$164,000, approximately \$64,000 more than his purchase price.

16 45. For that sale, Marshall Realty was McClintock's agent, so Marshall Realty
17 received the seller's commission on that sale.

18 **VIOLATIONS**

19 RESPONDENT has committed the following violations of law:

20 46. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or
21 NRS 645.252(2), on *five* occasions by not dealing fairly with the above sellers.

22 47. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or
23 NRS 645.252(2), on *five* occasions by not dealing fairly with the above sellers' mortgage
24 lenders.

25 **DISCIPLINE AUTHORIZED**

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

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

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

6 **NOTICE OF HEARING**

7 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider the
8 Administrative Complaint against the above-named Respondent in accordance with Chapters
9 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative
10 Code.

11 **THE HEARING WILL TAKE PLACE** on January 7, 2015 commencing at 9:00 a.m.,
12 or as soon thereafter as the Commission is able to hear the matter, and each day
13 thereafter commencing at 9:00 a.m. through January 9, 2015, or earlier if the business
14 of the Commission is concluded. The Commission meeting will be held on January 7,
15 2015, at the Henderson City Hall, Council Chambers Conference Room, 240 Water
16 Street, Henderson, Nevada 89015. The meeting will continue on January 8, 2015, at the
17 Henderson City Hall, Council Chambers Conference Room, 240 Water Street,
18 Henderson, Nevada 89015, commencing at 9:00 a.m., and on January 9, 2015, should
19 business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501 East
20 Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104.

21 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
22 same time as part of a regular meeting of the Commission that is expected to last from
23 January 7 through January 9, 2015, or earlier if the business of the Commission is
24 concluded. Thus, your hearing may be continued until later in the day or from day to
25 day. It is your responsibility to be present when your case is called. If you are not
26 present when your hearing is called, a default may be entered against you and the
27 Commission may decide the case as if all allegations in the complaint were true. If you
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1 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
2 4074.

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

9 As the Respondent, you are specifically informed that you have the right to appear and
10 be heard in your defense, either personally or through your counsel of choice. At the hearing,
11 the Division has the burden of proving the allegations in the complaint and will call witnesses
12 and present evidence against you. You have the right to respond and to present relevant
13 evidence and argument on all issues involved. You have the right to call and examine
14 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant
15 to the issues involved.

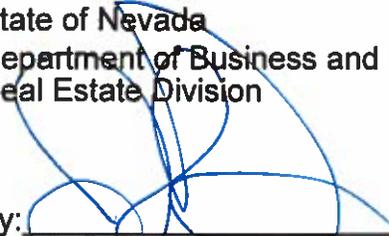
16 You have the right to request that the Commission issue subpoenas to compel
17 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
18 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
19 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
20 233B, and NAC 645.810 through 645.920.

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

5 DATED this 2nd day of December, 2014.

6 State of Nevada
7 Department of Business and Industry
8 Real Estate Division

9 By: 
10 JOSEPH R. DECKER, Administrator
11 2501 East Sahara Avenue
12 Las Vegas, Nevada 89104-4137
13 (702) 486-4033

14 CATHERINE CORTEZ MASTO
15 Attorney General

16 By: 
17 KEITH E. KIZER
18 Deputy Attorney General
19 555 East Washington Avenue, Suite 3900
20 Las Vegas, Nevada 89101
21 (702) 486-3326
22 Attorneys for Real Estate Division
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25
26
27
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