

FILED

BEFORE THE REAL ESTATE COMMISSION DEC 02 2014

STATE OF NEVADA

REAL ESTATE COMMISSION

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

Case No. REN 14-06-06-061

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

MICHELLE D. PLEVEL,

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 MICHELLE D. PLEVEL ("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 MICHELLE D. PLEVEL was at all relevant times mentioned in this Complaint licensed as a real estate broker-salesperson under license number BS.0045135, 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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Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

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.0045135, since September
5 23, 1999, and is currently in active status and subject to the jurisdiction of the Division and the
6 provisions of NRS chapter 645 and NAC chapter 645.

7 2. RESPONDENT was associated with Chase International at the relevant times
8 mentioned in this Complaint.

9 3. With respect to properties RESPONDENT was contracted to sell,
10 RESPONDENT facilitated potential buyers in return for the buyers using RESPONDENT in
11 their attempts to buy those properties.

12 4. RESPONDENT's actions resulted in many dual agencies for her.

13 **GOLD BELT DRIVE**

14 5. On or about September 7, 2012, Cindy and Mark Beadleston (the "Beadlestons")
15 entered into an Exclusive Right to Sell Contract, which engaged RESPONDENT to list and
16 sell real property located at 1725 Gold Belt Drive, Reno, Nevada (the "Gold Belt Property").

17 6. RESPONDENT had the Beadlestons sign a Multiple Listing Service ("MLS")
18 waiver.

19 7. On or about September 9, 2012, Robert and Emma Reid (the "Reids") offered to
20 buy the Gold Belt Property, and the Beadlestons accepted the offer.

21 8. RESPONDENT acted as the agent for both the Reids and the Beadlestons.

22 9. RESPONDENT did not input the Gold Belt Property into the MLS until
23 September 13, 2012, when she listed the property as pending-no show.

24 10. On or about November 26, 2012, the sale on the Gold Belt Property closed with
25 a final purchase price of \$218,500, resulting in RESPONDENT receiving both sides of the
26 sales commission.

27 11. On or about July 29, 2013, the Reids resold the Gold Belt Property for \$370,000,
28 approximately \$151,500 more than their purchase price.

1 **BIG TRAIL CIRCLE**

2 12. On or about March 21, 2012, Juan Macera ("Macera") entered into an Exclusive
3 Right to Sell Contract, which engaged RESPONDENT to list and sell real property located at
4 2219 Big Trail Circle, Reno, Nevada (the "Big Trail Property").

5 13. RESPONDENT had Macera elect to not list the property on any Internet Site.

6 14. On or about November 8, 2012, Synergy Properties offered to buy the Big Trail
7 Property, and Macera accepted the offer.

8 15. Synergy Properties is owned by Greg and Kyle Rea.

9 16. RESPONDENT acted as the agent for both Synergy Properties and Macera.

10 17. On or about March 28, 2013, the sale on the Big Trail Property closed for a final
11 purchase price of \$158,000, resulting in RESPONDENT receiving both sides of the sales
12 commission.

13 18. On or about June 5, 2013, Synergy Properties resold the Big Trail Property for
14 \$247,000, approximately \$89,000 more than its purchase

15 **JERMANN DRIVE**

16 19. On or about February 13, 2013, Jared and Lori Cook (the "Cooks") entered into
17 an Exclusive Right to Sell Contract, which engaged RESPONDENT to list and sell real
18 property located at 7075 Jermann Drive, Sparks, Nevada (the "Jermann Drive Property").

19 20. RESPONDENT had the Cooks sign an MLS waiver.

20 21. On or about March 27, 2013, Jeremy Page ("Page") offered to buy the Jermann
21 Drive Property, and the Cooks accepted the offer.

22 22. RESPONDENT acted as the agent for both Page and the Cooks.

23 23. On or about May 3, 2013, the sale on the Jermann Drive Property closed for a
24 final purchase price of \$175,000, resulting in RESPONDENT receiving both sides of the sales
25 commission.

26 24. On or about August 2, 2013, Page resold the Jermann Drive Property for
27 \$214,500, approximately \$39,500 more than his purchase price.

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1 **JEAN WAY**

2 25. On or about March 14, 2013, Alberta Grove ("Grove") and Harold Kiesling
3 ("Kiesling") entered into an Exclusive Right to Sell Contract, which engaged RESPONDENT to
4 list and sell real property located at 12240 Jean Way, Reno, Nevada (the "Jean Way
5 Property").

6 26. RESPONDENT had Grove elect to not list the property on any Internet Site.

7 27. On or about March 27, 2013, Northern Nevada Capital, LLC ("NNCL") offered to
8 buy the Jean Way Property, and Grove and Kiesling accepted the offer.

9 28. RESPONDENT acted as the agent for NNCL and Grove and Kiesling.

10 29. RESPONDENT did not input the Jean Way Property into the MLS until April 22,
11 2013, when she listed the property as pending-short sale.

12 30. On or about August 23, 2013, the sale on the Jean Way Property closed for a
13 final purchase price of \$110,000, resulting in RESPONDENT receiving both sides of the sales
14 commission.

15 31. On or about December 26, 2013, NNCL resold the Jean Way Property for
16 \$165,000, approximately \$55,000 more than its purchase price.

17 **WYOMING AVENUE**

18 32. On or about May 8, 2013, John and Susan Ellis (the "Ellises") entered into an
19 Exclusive Right to Sell Contract, which engaged RESPONDENT to list and sell real property
20 located at 1765 Wyoming Avenue, Reno, Nevada (the "Wyoming Avenue Property").

21 33. RESPONDENT had the Ellises sign an MLS waiver.

22 34. On or about May 23, 2013, Synergy Properties offered to buy the Wyoming
23 Avenue Property, and the Ellises accepted the offer.

24 35. RESPONDENT acted as the agent for both Synergy Properties and the Ellises.

25 36. RESPONDENT did not input the Wyoming Avenue Property into the MLS until
26 May 30, 2013.

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1 37. On or about October 16, 2013, the sale on the Wyoming Avenue Property
2 closed for a final purchase price of \$120,000, resulting in RESPONDENT receiving both sides
3 of the sales commission.

4 38. On or about March 7, 2014, Synergy Properties resold the Wyoming Avenue
5 Property for \$195,000, approximately \$75,000 more than its purchase price.

6 **AMETHYST DRIVE**

7 39. On or about April 12, 2013, Robert Proehl via Wendy Travers POA ("Travers")
8 entered into an Exclusive Right to Sell Contract, which engaged RESPONDENT to list and
9 sell real property located at 17090 Amethyst Drive, Reno, Nevada (the "Amethyst Property").

10 40. RESPONDENT had Travers sign a MLS waiver.

11 41. On or about April 17, 2013, R & R Enterprises of Nevada LLC ("R & R") to buy
12 the Amethyst Property, and Travers accepted the offer.

13 42. R & R is owned by Kyle Rea.

14 43. RESPONDENT acted as the agent for both R & R and Travers.

15 44. RESPONDENT did not input the Amethyst Property into the MLS until April 22,
16 2013, when she listed the property as pending-short sale.

17 45. On or about July 17, 2013, the sale on the Amethyst Property closed with a final
18 purchase price of \$135,000, resulting in RESPONDENT receiving both sides of the sales
19 commission.

20 46. On or about October 2, 2013, R & R resold the Amethyst Property for \$169,900,
21 approximately \$34,900 more than its purchase price.

22 **TRABERT CIRCLE**

23 47. On or about June 14, 2013, Pamela Shay ("Shay") entered into an Exclusive
24 Right to Sell Contract, which engaged RESPONDENT to list and sell real property located at
25 1795 Trabert Circle, Sparks, Nevada (the "Trabert Property").

26 48. RESPONDENT had Shay sign a MLS waiver.

27 49. On or about June 24, 2013, Pine Nut Hospitalities, LLC ("Pine Nut") offered to
28 buy the Trabert Property, and Shay accepted the offer.

1 50. RESPONDENT acted as the agent for both Pine Nut and Shay.

2 51. RESPONDENT did not input the Trabert Property into the MLS until June 26,
3 2013.

4 52. On or about December 23, 2013, the sale on the Trabert Property closed for a
5 final purchase price of \$140,000, resulting in RESPONDENT receiving both sides of the sales
6 commission.

7 53. On or about March 24, 2014, Pine Nut resold the Trabert Property for \$182,000,
8 approximately \$42,000 more than its purchase

9 **HEARTPINE STREET**

10 54. On or about July 30, 2013, Eugenia Chapman ("Chapman") entered into an
11 Exclusive Right to Sell Contract, which engaged RESPONDENT to list and sell real property
12 located at 11785 Heartpine Street, Reno, Nevada (the "Heartpine Property").

13 55. RESPONDENT had Chapman sign an MLS waiver.

14 56. On or about August 12, 2013, NNCL offered to buy the Heartpine Property, and
15 Chapman accepted the offer.

16 57. RESPONDENT acted as the agent for both NNCL and Chapman.

17 58. RESPONDENT did not input the Heartpine Property into the MLS until August
18 12, 2013, when she listed the property as pending-short sale.

19 59. On or about October 10, 2013, the sale on the Heartpine Property closed for a
20 final purchase price of \$141,000, resulting in RESPONDENT receiving both sides of the sales
21 commission.

22 60. On or about November 18, 2013, NNCL resold the Heartpine Property for
23 \$170,000, approximately \$29,000 more than its purchase price.

24 **MARISSA ANNE COURT**

25 61. On or about May 9, 2013, Sandra Motter McDonald ("McDonald") and James
26 Kean ("Kean") entered into an Exclusive Right to Sell Contract, which engaged
27 RESPONDENT to list and sell real property located at 6475 Marissa Anne Court, Sparks,
28 Nevada (the "Marissa Anne Property").

1 62. RESPONDENT had McDonald and Kean sign an MLS waiver.

2 63. On or about June 27, 2013, Pine Nut offered to buy the Marissa Anne Property,
3 and McDonald and Kean accepted the offer.

4 64. RESPONDENT acted as the agent for Pine Nut and McDonald and Kean.

5 65. RESPONDENT did not input the Marissa Anne Property into the MLS until June
6 27, 2013.

7 66. On or about September 12, 2013, the sale on the Marissa Anne Property closed
8 for a final purchase price of \$239,000, resulting in RESPONDENT receiving both sides of the
9 sales commission.

10 67. On or about November 21, 2013, Pine Nut resold the Marissa Anne Property for
11 \$272,500, approximately \$33,500 more than its purchase price.

12 **SANTA ANA DRIVE**

13 68. On or about August 6, 2013, Jennifer Downey ("Downey") and Steve Bennyhoff
14 ("Bennyhoff") entered into an Exclusive Right to Sell Contract, which engaged RESPONDENT
15 to list and sell real property located at 2835 Santa Ana Drive, Sparks, Nevada (the "Santa Ana
16 Property").

17 69. RESPONDENT had Downey and Bennyhoff sign an MLS waiver.

18 70. On or about August 12, 2013, NNCL offered to buy the Santa Ana Property, and
19 Downey and Bennyhoff accepted the offer.

20 71. RESPONDENT acted as the agent for NNCL and Downey and Bennyhoff.

21 72. RESPONDENT did not input the Santa Ana Property into the MLS until August
22 12, 2013, when she listed the property as pending-short sale.

23 73. On or about January 13, 2014, the sale on the Santa Ana Property closed for a
24 final purchase price of \$165,000, resulting in RESPONDENT receiving both sides of the sales
25 commission.

26 74. On or about March 19, 2014, NNCL resold the Santa Ana Property for \$209,900,
27 approximately \$44,900 more than its purchase price.

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1 VIOLATIONS

2 RESPONDENT has committed the following violations of law:

3 75. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or
4 NRS 645.252(2), on *ten* occasions by not dealing fairly with the above sellers.

5 76. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or
6 NRS 645.252(2), on *ten* occasions by not dealing fairly with the above sellers' lenders.

7 DISCIPLINE AUTHORIZED

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

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

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

16 NOTICE OF HEARING

17 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider the
18 Administrative Complaint against the above-named Respondent in accordance with Chapters
19 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative
20 Code.

21 **THE HEARING WILL TAKE PLACE** on January 7, 2015 commencing at 9:00 a.m.,
22 or as soon thereafter as the Commission is able to hear the matter, and each day
23 thereafter commencing at 9:00 a.m. through January 9, 2015, or earlier if the business
24 of the Commission is concluded. The Commission meeting will be held on January 7,
25 2015, at the Henderson City Hall, Council Chambers Conference Room, 240 Water
26 Street, Henderson, Nevada 89015. The meeting will continue on January 8, 2015, at the
27 Henderson City Hall, Council Chambers Conference Room, 240 Water Street,
28 Henderson, Nevada 89015, commencing at 9:00 a.m., and on January 9, 2015, should

1 business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501 East
2 Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104.

3 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
4 same time as part of a regular meeting of the Commission that is expected to last from
5 January 7 through January 9, 2015, or earlier if the business of the Commission is
6 concluded. Thus, your hearing may be continued until later in the day or from day to
7 day. It is your responsibility to be present when your case is called. If you are not
8 present when your hearing is called, a default may be entered against you and the
9 Commission may decide the case as if all allegations in the complaint were true. If you
10 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
11 4074.

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

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

25 You have the right to request that the Commission issue subpoenas to compel
26 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
27 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
28

1 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
2 233B, and NAC 645.810 through 645.920.

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

7 DATED this 2nd day of December, 2014.

8 State of Nevada
9 Department of Business and Industry
10 Real Estate Division

11 By: 
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