BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Petitioner,

vs.

MICHELLE D. PLEVEL,

Respondent.

Case No. REN 14-06-06-061

AMENDED

ANSWER TO COMPLAINT

FILED

DEC 26 2014

REAL ESTATE COMMISSION
BY

Comes now, Michelle D. Plevel ("Plevel"), by and through counsel, Roderic A. Carucci, Esq., and files her amended answers (amended answers in italics) to Petitioner's complaint as follows:

1. Admit.

2. Admit.

3. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 3.

4. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 4.

GOLD BELT DRIVE

5. Deny; the listing agreement involved multiple real estate agents.

6. *Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.*

7. Admit.

8. Deny; there were multiple agents involved in this transaction.

9. Admit, as per MLS regulations.

10. Deny. The supervising Broker, Chase International, and the Larkins Team, all participated in this transaction and received portions of the sales commission; Respondent received a portion of the total commission.

11. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 11.

BIG TRAIL CIRCLE

12. Admit.

13. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

14. Admit.

15. Admit.

16. Admit.

17. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

18. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 18.

JERMANN DRIVE

19. Admit.

20. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

21. Admit.

22. Admit.

23. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

24. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 24.

JEAN WAY

25. Admit.

26. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

27. Admit.

28. Admit.

29. Admit, as per MLS regulations.

30. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

31. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 31.

WYOMING AVENUE

32. Admit.

33. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

34. Admit.

35. Admit.

36. Admit, as per MLS regulations.

37. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

38. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 38.

AMETHYST DRIVE

39. Admit.

40. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

41. Admit.

42. Admit.

43. Admit.

44. Admit, as per MLS regulations.

45. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

46. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 46.

TRABERT CIRCLE

47. Admit.

48. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

49. Admit.

50. Admit.

51. Admit.

52. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

53. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 53.

HEARTPINE STREET

54. Admit.

55. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

56. Admit.

57. Admit.

58. Admit.

59. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

60. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 60.

MARISSA ANNE COURT

61. Admit.

62. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

63. Admit.

64. Admit.

65. Admit.

66. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

67. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 67.

SANTA ANA DRIVE

68. Admit.

69. Deny. The Sellers knowingly and voluntarily elected to sign an MLS waiver; Respondent in no way coerced the Sellers into executing an MLS waiver.

70. Admit.

71. Admit.

72. Admit.

73. Deny. The supervising Broker, Chase International, received both sides of the sales commission, Respondent received a portion of the commission.

74. Respondent Plevel is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 74.

AFFIRMATIVE DEFENSES

1. At all times Respondent acted responsibly and competently in fulfilling her professional obligations in the transactions set forth in the complaint.

2. At no time did Respondent act negligently or breach a duty of care to a client in any of the transactions alleged in the complaint.

3. At no time did Respondent perform below an accepted standard of care applicable to similarly situated licensees in any of the transactions alleged in the complaint.

4. In all cases alleged, Respondent obtained a written "Waiver of Benefits," from the Sellers on a standardized form prepared by the Northern Nevada Regional MLS, a voluntary membership organization available to Real Estate Brokers. In all cases Respondent received knowing and voluntary consent to this Waiver. In no case did Respondent exert undue influence to obtain such consent.

5. All transactions alleged in the complaint were supervised, reviewed and approved by Respondent's then Broker, Chase International. All transactions were documented on forms available and provided by either Chase International or the local MLS.

6. All transactions alleged were short sales of underwater properties where the amount owed exceeded the selling price. In each case, the homeowner had been denied a loan modification or principal reduction. Respondent provided benefits to the Seller by obtaining full debt releases from the lender for the full amount of the deficiency - the amount owed in excess of the selling price - for the selling homeowner.

7. Respondent did not represent either the Buyer or Seller in the sale subsequent to the short sale in any of the transactions alleged.

8. Respondent has no knowledge of what, or any, improvements may have been made by any of the properties by the short sale purchasers alleged herein, subsequent to the short sale in which she was involved.

9. Respondent did not in any way profit from subsequent sales of the properties alleged herein after the closing of the short sale transaction.

10. Respondent at no time represented any lender in any of the short sale transactions alleged herein.

11. The Lender in each of the short sale transactions alleged herein conducted their own independent analysis, appraisal and / or valuation of the subject properties every 60 days until the approval letter was submitted to the Sellers. The acceptable selling price for each short sale transaction alleged herein was determined by the Lender, not the Seller or the Respondent.

12. As long as the short sale seller received a "Full Release of Debt" from the Lender, the selling price of the subject property was immaterial to the Seller, who in no way financially benefitted from the sale, as each property was underwater at the time of sale.

13. The Respondent was in no way involved in the Lender's process to determine valuation of the subject properties, and therefore the Respondent had no involvement in the determination of a sales price which would be acceptable to the Lender. In some cases, the Lender - no the Seller - would counteroffer demanding a higher price based upon its independent assessment of value.

14. Participation in the MLS is a voluntary act or decision by each local Broker. Participation in the MLS is not an activity mandated or regulated by the Real Estate Division.

WHEREFORE, Respondent, prays for relief as follows:

1. That the Complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted.

2. For an award of attorney's and costs to compensate Respondent for having to respond to this maliciously based complaint which has no basis in law or fact, as the Real Estate Division did not exercise due care in researching and drafting this complaint. The Real Estate Division in performing a discretionary action failed to exercise due care in researching these issues alleged herein.

3. For such other and further relief as the Commission may deem appropriate in the premises.

DATED: December ____, 2014

Law Offices of Roderic A. Carucci
702 Plumas Street
Reno, Nevada 89509
(775) 323-0400

By: _____
Roderic A. Carucci, Esq.
Attorney for Michelle Plevel

CERTIFICATE OF SERVICE

I hereby certify that on this 23d day of December, 2014, pursuant to NRCP 5(b), I have deposited in the United States Mail at Reno, Nevada, a true and correct copy of:

- **ANSWER TO COMPLAINT**

enclosed in a sealed envelope upon which first class postage was fully prepaid addressed to the following:

Joseph R. Decker, Administrator
Nevada Real Estate Division
Department of Business and Industry
2501 E. Sahara Avenue, Suite 101
Las Vegas, NV 89104-4137

and to

Keith E. Kizer, Esq.
Deputy Attorney General
555 East Washington Ave., Ste. 3900
Las Vegas, NV 89101

Lisa M. Doyle, Paralegal
Roderic A. Carucci, Esq.