

FILED

MAY 23 2014

REAL ESTATE COMMISSION
Richard Hardy

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

GAIL J. ANDERSON, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. REN 11-03-03-054

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

DEBRA A. WARNER,

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 Kimberly A. Arguello, Senior Deputy Attorney General, hereby notifies RESPONDENT DEBRA A. WARNER ("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 DEBRA A. WARNER, fka Debra A. Smith, was at all relevant times mentioned in this Complaint licensed as salesperson under license number S.0032135 and as a property manager under permit number PM.0132135 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, at the relevant times mentioned in this Complaint, is licensed as salesperson under license number S.0032135 and as a property manager, permit number

1 PM.0132135 since October 29, 1998, and is currently in active status and subject to the
2 jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

3 2. RESPONDENT, at the relevant times mentioned in this Complaint, was a
4 property manager for Gaston & Wilkerson Management Group, Inc. ("G&W"), a Nevada
5 corporation.

6 3. On or about January 8, 2004, G&W entered into a management agreement with
7 Real Estate Venture, LLC ("REV"), in which G&W contracted to manage the property owned
8 by REV at 1250 West Second Street, Reno, Nevada.

9 4. REV's property at 1250 West Second Street, Reno, Nevada, was later
10 designated as the Stone Creek Apartments.

11 5. On or about March 30, 2004, RESPONDENT opened a charge account at The
12 Home Depot in REV's name, and using REV's taxpayer ID number.

13 6. On or about March 30, 2004, RESPONDENT opened a charge account at Office
14 Depot in REV's name.

15 7. On or about September 22, 2004, RESPONDENT opened a charge account at
16 Century Maintenance Supply in REV's name, and using REV's taxpayer ID number.

17 8. REV never authorized RESPONDENT or G&W to open charge accounts in
18 REV's name, or to use REV's taxpayer ID number in doing so.

19 9. RESPONDENT used one or more of the REV charge accounts referenced in
20 paragraphs 5, 6, and 7, above, to purchase items for properties not owned by REV, but
21 managed by G&W.

22 10. On or about March 3, 2011, REV's owner, Walter Neal, filed a Statement of Fact
23 with the Division regarding RESPONDENT's involvement in opening charge accounts in
24 REV's name, using REV's taxpayer ID number, and using the REV charge accounts to
25 purchase items for properties not owned by REV.

26 11. RESPONDENT's actions constitute gross negligence, material
27 misrepresentations and/or deceitful conduct.

28 . . .

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

1 **VIOLATIONS**

2 RESPONDENT has committed the following violations of law:

3 12. RESPONDENT, on THREE occasions, violated NRS 645.633(1)(h), NRS
4 645.633(1)(i) by opening charge accounts in REV's name and company tax ID number without
5 REV's authorization.

6 13. RESPONDENT, on one or more occasions, violated NRS 645.633(1)(h) by
7 using the REV charge accounts to purchase items for properties not owned by REV, but
8 managed by G&W.

9 **DISCIPLINE AUTHORIZED**

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

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

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

18 **NOTICE OF HEARING**

19 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider the
20 Administrative Complaint against the above-named Respondent in accordance with Chapters
21 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative
22 Code.

23 **THE HEARING WILL TAKE PLACE** on June 24, 2014 commencing at 8:30 a.m., or
24 **as soon thereafter** as the Commission is able to hear the matter, and each day
25 **thereafter commencing at 8:30 a.m.** through June 26, 2014, or earlier if the business of
26 **the Commission is concluded.** The Commission meeting will be held at the Legislative
27 **Building, 401 South Carson Street, Room 3137, Carson City, Nevada 89701.** The
28 **meeting will continue on June 25, 2014 at the Legislative Building, 401 South Carson**

1 Street, Room 3137, Carson City, Nevada 89701, commencing at 8:30 a.m., and on June
2 26, 2014, starting at 8:30 a.m. at the Legislative Building, 401 South Carson Street,
3 Room 3137, Carson City, Nevada 89701.

4 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
5 same time as part of a regular meeting of the Commission that is expected to last from
6 June 24 through June 26, 2014, or earlier if the business of the Commission is
7 concluded. Thus, your hearing may be continued until later in the day or from day to
8 day. It is your responsibility to be present when your case is called. If you are not
9 present when your hearing is called, a default may be entered against you and the
10 Commission may decide the case as if all allegations in the complaint were true. If you
11 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
12 4074.

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

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

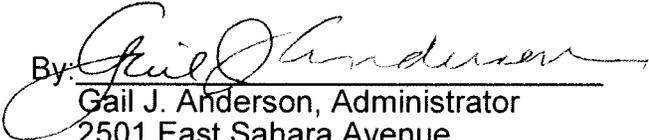
26 You have the right to request that the Commission issue subpoenas to compel
27 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
28 may be required to demonstrate the relevance of the witness' testimony and/or evidence.

1 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
2 233B, and NAC 645.810 through 645.875.

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.

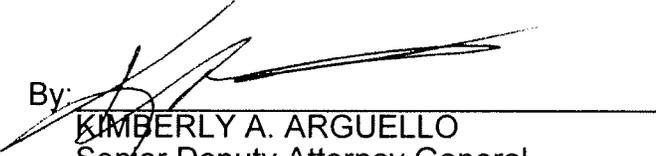
7 DATED this 23rd day of May, 2014.

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

11 By: 

12 Gail J. Anderson, Administrator
13 2501 East Sahara Avenue
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15 (702) 486-4033

16 CATHERINE CORTEZ MASTO
17 Attorney General

18 By: 

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28