

11/13/13
Rebecca H. G.

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. RES 13-08-32-066

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

IMA JEAN NIKOLICH,

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 Christopher Eccles, Deputy Attorney General, hereby notifies RESPONDENT Ima Jean Nikolich ("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 was at all relevant times mentioned in this Complaint licensed as a real estate broker by the Division under license number B.0013331.INDV and is therefore subject to the jurisdiction of the Division and the Commission and the provisions of NRS Chapter 645 and NAC Chapter 645.

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FACTUAL ALLEGATIONS

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2 1. Respondent, at the relevant times mentioned in this Complaint, was licensed as
3 a real estate broker, license number B.0013331.INDV from on or about July 12, 1990, through
4 on or about May 31, 2013, and her license is currently inactive.

5 2. Respondent is subject to the jurisdiction of the Division and the Commission and
6 the provisions of NRS Chapter 645 and NAC Chapter 645.

7 3. On or about January 2012, Respondent represented her client, Mitchell B.
8 Radney ("Radney"), regarding the purchase of real property located at 31 Quintessa Circle,
9 Las Vegas, Nevada 89134 (the "Quintessa property").

10 4. Radney, through Respondent, offered to purchase the Quintessa property on
11 January 6, 2012.

12 5. The closing date for the Quintessa property was set for January 13, 2012.

13 6. On or about August 2012, Mitchell McClellan ("McClellan") filed a Statement of
14 Fact with the Division regarding Respondent.

15 7. McClellan represented the seller of the Quintessa property.

16 8. McClellan complained that Respondent assured him that the \$6,400,000
17 purchase price for the Quintessa property was coming via wire transfer, but the money never
18 came.

19 9. McClellan also complained that because the closing date was only one week
20 after the date of the offer, his client, the seller, began moving out his personal belongings.

21 10. Respondent, on the Residential Purchase Agreement for the Quintessa
22 property, acknowledged that she received the sum of \$100,000 from Radney as earnest
23 money.

24 11. Respondent did not receive \$100,000 earnest money from Radney.

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1 **VIOLATIONS**

2 Respondent has committed the following violations of law:

3 12. Respondent violated NRS 645.630(1)(a) when she misrepresented to the seller
4 that she received earnest money from Radney.

5 13. Respondent violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) when she
6 breached her obligation to deal fairly with the seller.

7 **DISCIPLINE AUTHORIZED**

8 14. 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 15. Additionally, under NRS Chapter 622, the Commission is authorized to impose
12 costs of the proceeding upon Respondent, including investigative costs and attorney's fees, if
13 the Commission otherwise imposes discipline on Respondent.

14 16. 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 **Locations, Dates, and Times: THE HEARING WILL TAKE PLACE on July 16,**
22 **2013 commencing at 8:30 a.m., or as soon thereafter as the Commission is able to hear**
23 **the matter, at The Grant Sawyer Building, 555 East Washington Avenue, Room 4401,**
24 **Las Vegas, Nevada 89101 and via video conference to The Legislative Building, 401**
25 **South Carson Street, Room 3137, Carson City, Nevada 89701. The meeting will**
26 **continue on July 17, 2013 at The Grant Sawyer Building, 555 East Washington Avenue,**
27 **Room 4401, Las Vegas, Nevada 89101 and via video conference to The Legislative**
28 **Building, 401 South Carson Street, Room 3137, Carson City, Nevada 89701, and on**

1 July 18, 2013 at The Grant Sawyer Building, Gaming Control Board, 555 E. Washington
2 Avenue, Room 2450, Las Vegas, Nevada 89101 and via video conference to The Gaming
3 Control Board, 1919 College Parkway, Carson City, Nevada 89706.

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 July 16 through July 18, 2013. Thus, your hearing may be continued until later in the day or
7 from day to 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 need
10 to negotiate a more specific time for your hearing in advance because of coordination with out
11 of state witnesses or the like, please call Rebecca Hardin, Commission Coordinator (702)
12 486-4074.

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.

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1 You have the right to request that the Commission issue subpoenas to compel
2 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
3 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
4 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
5 233B, and NAC 645.810 through 645.875.

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

10 DATED this 14th day of June, 2013.

11 State of Nevada
12 Department of Business and Industry
13 Real Estate Division

14 By: Gail J. Anderson
15 Gail J. Anderson, Administrator
16 2501 East Sahara Avenue
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18 (702) 486-4033

19 CATHERINE CORTEZ MASTO
20 Attorney General

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