

FILED

DEC 19 2014

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

REAL ESTATE COMMISSION
BY *Richard A. ...*

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

Case No.: REN 14-05-02-42

Petitioner,

vs.

STEVEN P. O'BRIEN,

Respondent.

APPLICATION FOR MORE DEFINITE AND DETAILED STATEMENT

NRS 233B.121

COMES NOW, Respondent STEVEN P. O'BRIEN, pursuant to the provisions of NRS 233B.121, makes application of the Commission that the Department provide a more definite statement of the factual basis of the alleged violations in the Complaint.

The allegations of the Complaint merely set forth the bare facts of a sale of the real property located at 11 Woodstock Circle, Carson City, Nevada, that Respondent entered into a "triple agency" (Complaint at ¶6); that the sellers were the Brummers (Complaint at ¶7); that on March 8, 2013, Northern Nevada Capital, LLC offered to purchase the property in a short sale transaction (Complaint at ¶10); that the property was not included in the MLS (Complaint at ¶12); that the property then sold for \$300,000 on May 10, 2013 (Complaint at ¶13); and that the property resold on September 6, 2013 for \$55,000 more (Complaint at ¶14).

Based upon these sketch facts, it is alleged that respondent violated NRS 645.633(1)(h) and/or NRS 645.252(2) and did not deal fairly with the Brummers or was grossly negligent. Further, that the Respondent violated a duty of absolute fidelity to the Brummers and the Brummers' mortgage lender. No facts are alleged as to the creation of a "triple agency", how Respondent's conduct constituted a reckless disregard of probable consequences so as to be the equivalent of willful misconduct or intentional wrong to support a finding of gross negligence in the state of Nevada. Further, there are no

1 facts alleged that would establish any agency, contractual or fiduciary relationship or any duty owed by
2 Respondent to the seller's mortgage lender.

3 The facts with regard to the property located at 8290 Opal Station Drive and 3525 Gwynelle
4 Court are essentially the same. No facts are alleged to support or give the Respondent reasonable
5 notice of how he violated the provisions of Chapter 645 of the Nevada Revised Statutes.

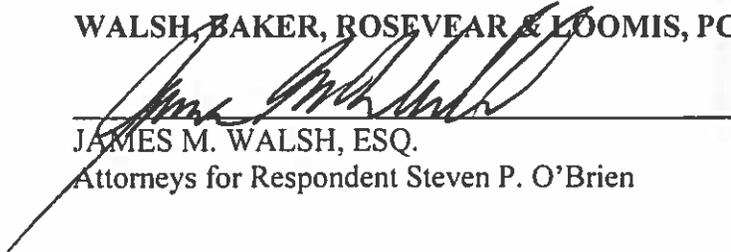
6 Based upon the foregoing, it is respectfully requested that Petitioner be required to provide a
7 more definite statement of the facts upon which the Complaint is based, pursuant to NRS 233B.121, or
8 in the alternative, that the Complaint be dismissed.

9 **Affirmation Pursuant to NRS 239B.030**

10 The undersigned does hereby affirm that the preceding document does not contain the social
11 security number of any person.

12 DATED this 5th day of December, 2014.

13 **WALSH, BAKER, ROSEVEAR & LOOMIS, PC**

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16 JAMES M. WALSH, ESQ.

17 Attorneys for Respondent Steven P. O'Brien
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1 CERTIFICATE OF SERVICE

2 I, the undersigned, declare under penalty of perjury, that I am an employee of WALSH, BAKER,
3 ROSEVEAR & LOOMIS, PC that I am over the age of eighteen (18) years, and that I am not a party to,
4 nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing
document on all parties to this action by:

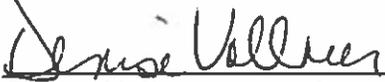
5 Placing an original or true copy thereof in a sealed envelope placed for collection and
6 mailing in the United States Mail, at Reno, Nevada postage paid, following the ordinary
7 course of business practices;

8 addressed as follows:

9 Keith E. Kizer
10 Deputy Attorney General
11 555 East Washington Avenue, Suite 3900
12 Las Vegas, Nevada 89101
Attorneys for Real Estate Division

13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 15th day of December, 2014.

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16 
17 _____
Denise Vollmer, an employee of
18 Walsh, Baker, Rosevear & Loomis, PC