

FILED

MAR 20 2015

REAL ESTATE COMMISSION
BY *[Signature]*

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. 2014-3746

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

CARMEN THOMAS,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Keith E. Kizer, Deputy Attorney General, hereby notifies RESPONDENT CARMEN THOMAS ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The 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 CARMEN THOMAS was at all relevant times mentioned in this Complaint licensed by the Division as a Salesperson under license number S.0065745 and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

1. RESPONDENT has been licensed by the Division as a Salesperson under license number S.0065745, since May 2, 2005, and is in active status.

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

1 2. RESPONDENT is subject to the jurisdiction of the Division and the Commission,
2 and the provisions of NRS chapter 645 and NAC chapter 645.

3 3. At all times relevant to the Complaint, RESPONDENT was associated with
4 broker Damon Caldwell ("Caldwell") at Realty One Group Inc.

5 4. On or about May 25, 2014, Manuel Cadenas ("Cadenas") entered into a
6 Residential Purchase Agreement to purchase real property located at 1350 Pecan Tree Court,
7 Las Vegas, Nevada (the "Property").

8 5. RESPONDENT acted as Cadenas's agent for that real estate transaction.

9 6. On or about May 31, 2014, RESPONDENT directed Cadenas to purchase two
10 blank \$450 money orders, allegedly for an appraisal and an inspection of the Property.

11 7. Cadenas complied on or about that same day, by giving RESPONDENT two
12 blank \$450 money orders.

13 8. Despite requests from Cadenas, RESPONDENT did not provide Cadenas with
14 proof that those monies were spent on an appraisal and an inspection of the Property.

15 9. On or about May 31, 2014, RESPONDENT also directed Cadenas to purchase a
16 cashier's check in the amount of \$4,000 to show proof of funds to the lender, Capella
17 Mortgage Corp. ("Capella").

18 10. Capella never asked for proof of funds from Cadenas.

19 11. On or about May 31, 2014, Cadenas gave RESPONDENT a cashier's check in
20 the amount of \$4,000 made payable to Cadenas.

21 12. On or about June 4, 2014, RESPONDENT returned the \$4,000 cashier's check
22 to Cadenas, and directed Cadenas to purchase four blank \$1,000 money orders instead.

23 13. Cadenas complied on or about that same day, by giving RESPONDENT a total
24 of \$4,000 in blank money orders.

25 14. RESPONDENT did not turn over Cadenas's funds to Caldwell.

26 15. On or about June 16, 2014, RESPONDENT made the four \$1,000 money orders
27 payable to Orbis Group, and cashed them.

28 16. RESPONDENT is the principal and only officer of Orbis Group.

1 17. RESPONDENT comingled \$4,000 of Cadenas's funds with her own funds.

2 18. In late June or early July 2014, RESPONDENT told Corinne Cordon ("Cordon"),
3 President of Capella, that Cadenas was not available to meet with Cordon because he had to
4 travel to Mexico due to the death of his father.

5 19. Cadenas did not travel to Mexico at the time alleged by RESPONDENT.

6 20. RESPONDENT knew Cadenas had not traveled to Mexico at that time.

7 21. On or about July 12, 2014, Cordon asked RESPONDENT for Cadenas's
8 telephone number, but RESPONDENT did not provide it to Cordon.

9 22. RESPONDENT gave Cordon Cadenas's alleged email address.

10 23. On or about July 22, 2014, Cordon told Cadenas that Capella had received
11 Cadenas's signed loan documents via his email address.

12 24. Cadenas informed Cordon that he had not signed any loan documents and did
13 not have an email account.

14 25. On information and belief, RESPONDENT created a fictitious email account for
15 Cadenas and forged his signature on the loan documents.

16 26. Cadenas discovered that the \$4,000 he gave RESPONDENT was not included
17 in the real estate transaction and demanded a refund from RESPONDENT.

18 27. RESPONDENT returned \$4,000 to Cadenas.

19 28. After learning of RESPONDENT'S conduct, Cadenas cancelled his planned
20 purchase of the Property.

21 29. Because of that cancellation, Cadenas had to forfeit \$1,000 of his earnest
22 money deposit.

23 30. On or about October 2, 2014, Caldwell filed a Statement of Fact with the
24 Division, complaining about RESPONDENT's conduct.

25 31. On or about October 27, 2014, Cadenas filed a Statement of Fact with the
26 Division, complaining about RESPONDENT's conduct.

27 ...

28 ...

VIOLATIONS

RESPONDENT has committed the following violations of law:

32. RESPONDENT violated NRS 645.630(1)(h) by converting Cadenas's money to her own personal use.

33. RESPONDENT violated NRS 645.630(1)(i) and/or NAC 645.657 by failing to place in Caldwell's custody, as soon as possible, a deposit or other money entrusted to her by Cadenas, or by failing to pay over Cadenas's deposit to the escrow business or company designated in the contract, within one business day after receiving a fully executed contract.

34. RESPONDENT violated NRS 645.633(1)(i), pursuant to NAC 645.605(1), by engaging in conduct which constitutes deceitful, fraudulent or dishonest dealing, and/or failing to do her utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate.

35. RESPONDENT violated NRS 645.633(1)(i), pursuant to NAC 645.605(6), by breaching her obligation of absolute fidelity to Cadenas's interest.

DISCIPLINE AUTHORIZED

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

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

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

NOTICE OF HEARING

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

1 THE HEARING WILL TAKE PLACE on April 21, 2015 commencing at 9:00 a.m., or
2 as soon thereafter as the Commission is able to hear the matter, and each day
3 thereafter commencing at 9:00 a.m. through April 23, 2015, or earlier if the business of
4 the Commission is concluded. The Commission meeting will be held on April 21, 2015,
5 at the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue,
6 Room 2450, Las Vegas, Nevada 89101. The meeting will continue on April 22, 2015, at
7 the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue, Room
8 2450, Las Vegas, Nevada 89101, commencing at 9:00 a.m., and on April 23, 2015,
9 should business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501
10 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104.

11 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
12 same time as part of a regular meeting of the Commission that is expected to last from
13 April 21 through April 23, 2015, or earlier if the business of the Commission is
14 concluded. Thus, your hearing may be continued until later in the day or from day to
15 day. It is your responsibility to be present when your case is called. If you are not
16 present when your hearing is called, a default may be entered against you and the
17 Commission may decide the case as if all allegations in the complaint were true. If you
18 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
19 4074.

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

26 As the Respondent, you are specifically informed that you have the right to appear and
27 be heard in your defense, either personally or through your counsel of choice. At the hearing,
28 the Division has the burden of proving the allegations in the complaint and will call witnesses

1 and present evidence against you. You have the right to respond and to present relevant
2 evidence and argument on all issues involved. You have the right to call and examine
3 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant
4 to the issues involved.

5 You have the right to request that the Commission issue subpoenas to compel
6 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
7 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
8 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
9 233B, and NAC 645.810 through 645.875.

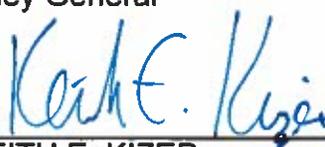
10 The purpose of the hearing is to determine if the Respondent has violated NRS 645
11 and/or NAC 645 and if the allegations contained herein are substantially proven by the
12 evidence presented and to further determine what administrative penalty is to be assessed
13 against the Respondent, if any,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

14 DATED this 08 day of March, 2015.

15 State of Nevada
16 Department of Business and Industry
17 Real Estate Division

18 By: 
19 JOSEPH R. DECKER, Administrator
20 2501 East Sahara Avenue
21 Las Vegas, Nevada 89104-4137
22 (702) 486-4033

23 ADAM PAUL LAXALT
24 Attorney General

25 By: 
26 KEITH E. KIZER
27 Deputy Attorney General
28 555 East Washington Ave., Ste. 3900
Las Vegas, Nevada 89101
(702) 486-3326
Attorneys for Real Estate Division