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MAR 20 2015

REAL ESTATE COMMISSION
BY *Alison Kizer*

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. RES 12-12-10-179

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.

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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 Jesus Esparza ("Esparza") at City National Properties LLC.

5 4. On or about August 20, 2010, RESPONDENT began acting as the agent for
6 Santiago Vargas Jr. ("Vargas"), who wanted to purchase real property located at 5780
7 Cloverleaf Circle, Las Vegas, Nevada (the "Property").

8 5. On or about October 7, 2010, RESPONDENT directed Vargas to purchase blank
9 money orders totaling \$5,000, because his offer on the Property had been accepted.

10 6. Consequently, Vargas gave RESPONDENT five blank \$1,000 money orders.

11 7. On or about October 13, 2010, RESPONDENT made those money orders
12 payable to herself and cashed them.

13 8. RESPONDENT did not turn over Vargas's funds to Esparza.

14 9. RESPONDENT comingled Vargas's funds with her own funds.

15 10. In or about February 2011, Vargas's planned purchase of the Property was
16 cancelled, allegedly because of an inability to obtain financing.

17 11. At that time, Vargas requested RESPONDENT to return his \$5,000.

18 12. RESPONDENT informed Vargas that his funds were with the mortgage
19 company.

20 13. When Vargas called the mortgage company, they told him that they had no
21 knowledge of the funds and that he should call RESPONDENT.

22 14. Vargas had to place a tracer, at his expense, on all five \$1,000 money orders
23 and learned that RESPONDENT made all five money orders payable to herself and then
24 cashed them.

25 15. After Vargas contacted RESPONDENT again, she gave him \$4,000, and told
26 Vargas the other \$1,000 was deposited in escrow for the Property purchase.

27 16. In or about March 2011, RESPONDENT informed Vargas that he had been
28 approved for a loan but that the lender required a Property inspection.

1 17. RESPONDENT asked Vargas for, and received from Vargas, a \$400 money
2 order made payable to Santiago Tavera ("Tavera").

3 18. Tavera allegedly inspected the Property, and RESPONDENT provided Vargas
4 with a \$400 receipt for the alleged inspection.

5 19. Tavera did not hold a Nevada Inspector of Structure Certificate when he
6 allegedly performed the inspection.

7 20. When Vargas complained to RESPONDENT about her actions, RESPONDENT
8 replied that she was not concerned if Vargas filed a complaint with the Division because her
9 husband is an attorney.

10 21. On or about December 7, 2011, Vargas filed a Statement of Fact with the
11 Division, complaining about RESPONDENT's conduct.

12 22. On or about December 23, 2011, Esparza informed the Division that
13 RESPONDENT failed to place in his custody Vargas's deposit or other money entrusted to
14 RESPONDENT.

15 23. Esparza also informed the Division that RESPONDENT failed to provide
16 paperwork to him within five calendar days after that paperwork was executed by Vargas.

17 24. On or about December 29, 2011, RESPONDENT submitted to the Division a
18 letter allegedly from Vargas, stating that he gave RESPONDENT the \$5,000 as a deposit on
19 an event she was promoting so Vargas's band could play the event.

20 25. That letter submitted by RESPONDENT to the Division was not written or signed
21 by Vargas, and the information contained therein was false.

22 VIOLATIONS

23 RESPONDENT has committed the following violations of law:

24 26. RESPONDENT violated NRS 645.252(2) by failing to exercise reasonable skill
25 and care when she arranged and charged Vargas for an alleged home inspection by an
26 unlicensed home inspector.

27 27. RESPONDENT violated NRS 645.630(1)(c) by accepting and cashing Vargas's
28 money orders that were to be used to open escrow.

1 28. RESPONDENT violated NRS 645.630(1)(h) by comingling Vargas's money with
2 her own.

3 29. RESPONDENT violated NRS 645.630(1)(i) by failing to place in Esparza's
4 custody, as soon as possible, a deposit or other money entrusted to her by Vargas.

5 30. RESPONDENT violated NRS 645.633(1)(i), pursuant to NAC 645.605(11)(d), by
6 submitting false, forged or altered documentation to the Division.

7 31. RESPONDENT violated NAC 645.650(2) by failing to provide paperwork to
8 Esparza within five calendar days after that paperwork was executed by all the parties.

9 **DISCIPLINE AUTHORIZED**

10 32. 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 33. 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 34. 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 April 21, 2015 commencing at 9:00 a.m., or**
24 **as soon thereafter as the Commission is able to hear the matter, and each day**
25 **thereafter commencing at 9:00 a.m. through April 23, 2015, or earlier if the business of**
26 **the Commission is concluded. The Commission meeting will be held on April 21, 2015,**
27 **at the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue,**
28 **Room 2450, Las Vegas, Nevada 89101. The meeting will continue on April 22, 2015, at**

1 the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue, Room
2 2450, Las Vegas, Nevada 89101, commencing at 9:00 a.m., and on April 23, 2015,
3 should business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501
4 East Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104.

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

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

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

27 You have the right to request that the Commission issue subpoenas to compel
28 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you

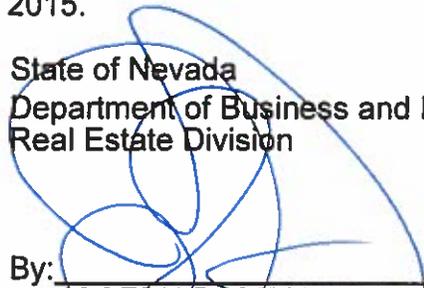
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1 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
2 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
3 233B, and NAC 645.810 through 645.875.

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

8 DATED this 20 day of March, 2015.

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

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