

FILED

MAR 20 2015

BEFORE THE REAL ESTATE COMMISSION  
STATE OF NEVADA

REAL ESTATE COMMISSION  
BY Robert Smith

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

Case No. RES 14-01-108-446

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.

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**FACTUAL ALLEGATIONS**

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

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

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

8 4. On or about June 1, 2013, Jose A. Gaitan ("Gaitan") entered into a Residential  
9 Purchase Agreement to purchase real property located at 3982 Chasing Heart Way, Las  
10 Vegas, Nevada (the "Property").

11 5. RESPONDENT acted as Gaitan's agent for that real estate transaction.

12 6. RESPONDENT also acted as the seller's agent for that real estate transaction.

13 7. On or about June 1, 2013, RESPONDENT directed Gaitan to purchase three  
14 blank \$1,000 money orders to open escrow, and one blank \$400 money order for Property  
15 appraisal and inspection.

16 8. Gaitan complied on or about that same day, by giving RESPONDENT a total of  
17 \$3,400 in blank money orders.

18 9. On or about June 3, 2013, RESPONDENT made one of the \$1,000 money  
19 orders payable to Nations Title Company.

20 10. RESPONDENT made the other two \$1,000 money orders and the \$400 money  
21 order payable to Orbis Financial Group or Orbis Entertainment Group (collectively referred to  
22 herein as "Orbis"), and cashed them.

23 11. RESPONDENT is the principal and only officer of Orbis.

24 12. RESPONDENT did not turn over \$2,400 of Gaitan's funds to Caldwell.

25 13. RESPONDENT comingled \$2,400 of Gaitan's funds with her own funds.

26 14. On or about July 9, 2013, RESPONDENT told Gaitan that his offer on the  
27 Property had been accepted and approved, and that the sale would close on July 31, 2013.

28 ...

1 15. After July 31, 2013 passed and the closing did not occur, Gaitan tried to contact  
2 RESPONDENT but she would not return Gaitan's telephone calls and allegedly hid when  
3 Gaitan visited her office.

4 16. On or about January 6, 2014, due to the seller cancelling the sale, Gaitan, the  
5 seller and RESPONDENT signed Cancellation Instructions.

6 17. Nations Title Company refunded Gaitan his \$1,000 on or about January 9, 2014.

7 18. RESPONDENT refused to return the remaining \$2,400 to Gaitan.

8 19. On or about January 21, 2014, Gaitan filed a Statement of Fact with the Division,  
9 complaining about RESPONDENT's conduct.

10 20. On or about January 30, 2014, RESPONDENT returned \$2,000 to Gaitan.

11 21. On or about February 7, 2014, RESPONDENT informed the Division that Gaitan  
12 gave her \$2,400 for a soccer event promoted by Orbis.

13 22. At that time, RESPONDENT submitted to the Division a document dated May  
14 30, 2013, allegedly signed by Gaitan, stating that he gave RESPONDENT \$2,400 as a  
15 donation to the soccer event Orbis was promoting.

16 23. Gaitan's name is misspelled on that document and the signature thereon does  
17 not match his signature on other documents submitted by RESPONDENT.

18 24. That document submitted by RESPONDENT to the Division was not signed by  
19 Gaitan, and the information contained therein was false.

20 25. On or about February 14, 2014, Caldwell informed the Division that  
21 RESPONDENT failed to place in Caldwell's custody \$2,400 entrusted to RESPONDENT by  
22 Gaitan.

### 23 VIOLATIONS

24 RESPONDENT has committed the following violations of law:

25 26. RESPONDENT violated NRS 645.630(1)(h) by converting Gaitan's money to her  
26 own personal use.

27 27. RESPONDENT violated NRS 645.630(1)(i) and/or NAC 645.657 by failing to  
28 place in Caldwell's custody, as soon as possible, a deposit or other money entrusted to her by

1 Gaitan, or pay over Gaitan's deposit to the escrow business or company designated in the  
2 contract, within one business day after receiving a fully executed contract.

3 28. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(1), by  
4 failing to do her utmost to protect the public against fraud, misrepresentation or unethical  
5 practices related to real estate.

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

8 **DISCIPLINE AUTHORIZED**

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

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

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

17 **NOTICE OF HEARING**

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

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

1 2450, Las Vegas, Nevada 89101, commencing at 9:00 a.m., and on April 23, 2015,  
2 should business not be concluded, starting at 9:00 a.m. at the Bradley Building, 2501  
3 East Sahara Avenue, 2<sup>nd</sup> Floor Conference Room, Las Vegas, Nevada 89104.

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 April 21 through April 23, 2015, 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.

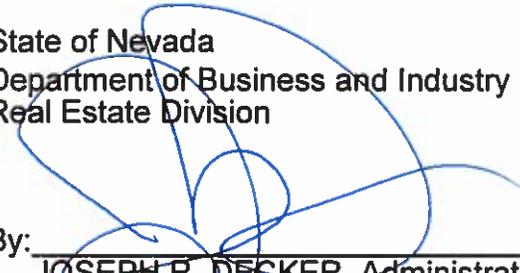
26 You have the right to request that the Commission issue subpoenas to compel  
27 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you  
28 may be required to demonstrate the relevance of the witness' testimony and/or evidence.

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 is to be assessed  
6 against the Respondent, if any, pursuant to NRS 645.633 and/or NRS 645.630.

7 DATED this 20 day of March, 2015.

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

11 By:   
12 JOSEPH R. DECKER, Administrator  
13 2501 East Sahara Avenue  
14 Las Vegas, Nevada 89104-4137  
15 (702) 486-4033

16 ADAM PAUL LAXALT  
17 Attorney General

18 By:   
19 KEITH E. KIZER  
20 Deputy Attorney General  
21 555 East Washington Ave., Ste. 3900  
22 Las Vegas, Nevada 89101  
23 (702) 486-3326  
24 Attorneys for Real Estate Division  
25  
26  
27  
28

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