

**FILED**

MAR 28 2016

**BEFORE THE REAL ESTATE COMMISSION  
STATE OF NEVADA**

REAL ESTATE COMMISSION  
BY *Rebecca Hardin*

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

Case No. RES 14-07-13-013

Petitioner,

vs.

MICHAEL (COACH) HOWARD,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

This matter came on for hearing before the Nevada Real Estate Commission, Department of Business and Industry, State of Nevada ("Commission") on December 17, 2015 at 240 Water Street, Council Chambers, Henderson, Nevada, 89015. Present were Commissioners Norma Jean Opatik, Sherrie Cartinella, Neil Schwartz, Devin Reiss and Lee Barrett. The Respondent, MICHAEL (COACH) HOWARD ("RESPONDENT" or "HOWARD"), failed to appear at the Hearing, failed to file an Answer to the Complaint, and failed to request a continuance of the Hearing. Kimberly A. Arguello, Senior Deputy Attorney General appeared on behalf of Petitioner.

**FINDINGS OF FACT**

The Commission, based upon the evidence presented during the Hearing, finds that there is a preponderance of evidence in the record to establish each of the following Findings of Fact:

1. Counsel for Petitioner made an offer of proof that RESPONDENT was given proper Notice of the Hearing.
2. Rebecca Hardin, Commission Coordinator for the Division, testified that the Complaint, Notice of Complaint and Notice of Documents were mailed via certified mail more than 30 days prior to the Hearing to RESPONDENT at the last known address RESPONDENT provided to the Division.

1           3.     The Commission finds that proper notice of the hearing was given to  
2     RESPONDENT.

3           4.     Pursuant to NAC 645.860, the Commission finds that the following facts  
4     specified in the Complaint are true.

5           5.     RESPONDENT, at the relevant times mentioned in the Complaint, was licensed  
6     as a Salesperson under license number S.0055999 and is currently inactive and subject to  
7     the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

8           6.     Kevin Schreiner found the property located at 8 Serra Billisimo, Henderson,  
9     Nevada ("the property") that he was interested in purchasing and contacted RESPONDENT,  
10    who was the listing agent.

11          7.     Mr. Schreiner met with RESPONDENT, looked at the property and decided to  
12    make an offer on the property.

13          8.     RESPONDENT represented Mr. Schreiner as buyers agent.

14          9.     Mr. Schreiner made an offer on the property that he was told by RESPONDENT  
15    was accepted.

16          10.    There was another offer on the property that was previously accepted by seller,  
17    but there had been an addendum to that offer that sellers would not accept.

18          11.    RESPONDENT advised the Schreiner's that their offer would be accepted.

19          12.    RESPONDENT met with the Schreiner's on January 13, 2013, signed a contract  
20    and wrote a check to escrow for \$15,000.

21          13.    At that meeting, RESPONDENT requested an additional check in the amount of  
22    \$2,500 be written to him personally as an advance on the closing. RESPONDENT explained  
23    that he would in turn write a check payable to the Schreiner's dated January 25, 2013, the day  
24    after the scheduled closing, in the amount of \$3,000.

25          14.    RESPONDENT cashed the Schreiner's \$2,500 check the next day.

26          15.    On January 16, 2013 RESPONDENT informed Mr. Schreiner that the contract  
27    for the property was not valid and that the sellers had accepted the original previous offer.

28

1 16. After the fact, Mr. Schreiner discovered that his offer included an addendum  
2 stating that "Buyers agreed to be back-up offer and willing to wait for the cancellation of the  
3 current escrow." He did not sign the addendum and was not informed that his was a back-up  
4 offer.

5 17. The Addendum was signed as accepted by sellers; also represented by  
6 RESPONDENT.

7 18. RESPONDENT promised that the \$3,000 check could be cashed as promised.

8 19. On January 30, 2013 Mr. Schreiner attempted to cash the check at  
9 RESPONDENT's bank and was told it could not be cashed.

10 20. RESPONDENT explained that he needed the money for his daughter's health  
11 care but made numerous promises to repay Mr. Schreiner.

12 21. After months of promises to pay that turned out to be lies, a complaint was filed  
13 with the Division.

#### 14 CONCLUSIONS OF LAW

15 Based upon NAC 645.860 and the findings of fact, the Commission hereby finds by a  
16 preponderance of the evidence the following violations of law:

17 22. RESPONDENT violated NRS 645.633(1)(i), by engaging in deceitful, fraudulent  
18 or dishonest dealing.

19 23. RESPONDENT violated NRS 645.630(1)(b) by making false promises that were  
20 likely to influence, persuade, or induce.

21 24. RESPONDENT violated NRS 645.633(1)(h), pursuant to NRS 645.254(5) and  
22 NAC 645.605(6) by breaching his obligation of absolute fidelity to Mr. Schreiner and failing to  
23 disclose that his offer was a back-up offer.

#### 24 ORDER

25 The Commission being fully apprised in the premises, and good cause appearing to the  
26 Commission, IT IS HEREBY ORDERED THAT:

27 25. The RESPONDENT shall pay to the Division a total fine of \$30,722.79. The  
28 total fine reflects a fine of \$10,000.00 for each of the above violations of law and plus \$722.79

1 for hearing and investigative costs. Respondent shall pay the total fine to the Division within  
2 ninety (90) days of the effective date of this Order.

3 26. RESPONDENT'S salesperson license number S.0055999 is hereby **REVOKED**.

4 27. The Division may institute debt collection proceedings for failure to timely pay  
5 the total fine pursuant to NRS 645.630.

6 28. The Commission retains jurisdiction for correcting any errors that may have  
7 occurred in the drafting or issuance of this Order.

8 This Order shall become effective on the 28<sup>th</sup> day of APRIL, 2016.

9  
10 Dated this 16<sup>th</sup> day of MARCH, 2016.

11 NEVADA REAL ESTATE COMMISSION

12  
13 By: 