

BEFORE THE REAL ESTATE COMMISSION

NOV 02 2016

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *[Signature]*

SHARATH CHANDRA, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No.: 2015-1825

Petitioner,

vs.

DECISION:
FINDINGS OF FACT AND CONCLUSIONS
OF LAW

MARY E. MCQUATTIE,

Respondent.

This matter came on for hearing before the Nevada Real Estate Commission ("Commission"), State of Nevada, on Wednesday, October 5, 2016, at the Legislative Building, 401 South Carson Street, Room 2134, Carson City, Nevada 89701. RESPONDENT Mary E. McQuattie ("RESPONDENT"), appeared in person and testified at the hearing. Deputy Attorney General, Peter K. Keegan, appeared and prosecuted the Complaint on behalf of petitioner Sharath Chandra, Administrator of the Real Estate Division, Department of Business & Industry, State of Nevada ("Division").

The matter having been submitted for decision based upon the allegations of the Complaint, the Commission now enters its Findings of Fact and Conclusions of Law as follows:

JURISDICTION

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker Salesperson, License Number BS.0023321, and is therefore subject to the jurisdiction of the Division and the provisions of Nevada Revised Statute ("NRS") Chapter 645 and Nevada Administrative Code ("NAC") Chapter 645.

FINDINGS OF FACT

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

1. RESPONDENT has been licensed as a Broker Salesperson, License Number BS. 0023321, since October 3, 1989, and is currently in active status.

Attorney General's Office
100 N. Carson Street
Carson City, Nevada 89701-4717

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1 2. RESPONDENT was formerly licensed as a Broker, License Number
2 B.0062491.INDV, from August 20, 2004 until August 31, 2005.

3 3. RESPONDENT was also formerly licensed as a Broker, License Number
4 B.0023321.CORP, from March 10, 1992 until November 01, 2012.

5 4. RESPONDENT is the principal broker of Commercial Industrial Real Estate
6 Services ("CIRES").

7 5. RESPONDENT is currently a Broker Salesperson employed by Chase
8 International.

9 6. Jim and Alex Kingzett and Marco and Karen Fiorello entered into an Exclusive
10 Right to Sell Contract, which engaged CIRES to list and sell real property referred to as the
11 Geothermal Rail Industrial Development, LLC ("GRID") and Geothermal Resources Industrial
12 Park ("GRIP").

13 7. The April 28, 2003, Exclusive Right to Sell Contract contained a termination date
14 pursuant to NRS 645.320 of April 27, 2006.

15 8. In the Exclusive Right to Sell Contract, RESPONDENT failed to provide a copy
16 of Exhibit "B," the referenced compensation fee or commission schedule that was supposed to
17 be attached thereto.

18 9. RESPONDENT failed to include a compensation fee or commission schedule in
19 the April 28, 2003, Exclusive Right to Sell Contract.

20 10. Between May 12, 2003 and August 15, 2003, Marco and Karen Fiorello, Jim
21 Kingzett and Alexander Kingzett, the managers of GRID and GRIP, entered into a contract
22 titled "Agreement to Transfer Ownership" with Frasier Investments, LLC, ("Frasier") by and
23 through its President Mary E. McQuattie and Richard M. Gunkel.

24 11. The Agreement to Transfer Ownership transferred an 8% ownership interest in
25 the GRID properties to Frasier, as well as a 6% ownership interest in the GRIP properties to
26 Frasier.

27 12. In paragraph 13 of the Agreement to Transfer Ownership, the parties agreed to
28 use CIRES, and its principal broker, Mary E. McQuattie, as its sole Real Estate Broker.

1 13. Paragraph 13 further contained a reference to Exhibit "D," which was the
2 Schedule of Sale and Lease Commissions the parties agreed to pay CIRES.

3 14. Neither the Agreement to Transfer Ownership or Exhibit "D" thereto contained a
4 termination date as required by NRS 645.320.

5 15. RESPONDENT'S failure to prepare a complete Brokerage Agreement that
6 complied with NRS 645.320 has resulted in protracted and on-going litigation between the
7 parties over the claims by RESPONDENT that she is entitled to on-going commissions related
8 to sales of the GRIP and GRID properties.

9 16. Since joining Chase International as a Broker Salesperson, RESPONDENT has
10 advertised her services under the nickname "Missy," which is not the name under which
11 RESPONDENT is licensed with the Division.

12 17. On or about March 23, 2015, the Division received a complaint from counsel for
13 the Fiorellos and Kingzets regarding RESPONDENT.

14 18. On or about July 6, 2015, the Division sent RESPONDENT an Opening Letter
15 indicating that an investigation had commenced concerning the March 23, 2015, complaint
16 and requesting a response from RESPONDENT.

17 19. After receiving an extension to respond to the July 6, 2015, Opening Letter, a
18 response was submitted by RESPONDENT'S counsel on August 3, 2015, which contested
19 the allegations in the complaint.

20 20. On or about May 31, 2016, the Division sent RESPONDENT a Notice of
21 Violation with Imposition of Administrative Fine, which required RESPONDENT to pay a
22 \$1,000.00 fine pursuant to NRS 645.633, NAC 645.610, and NAC 646.695.

23 21. On or about June 9, 2016, RESPONDENT sent the Division a letter indicating
24 she wished to appeal the violation.

25 22. On or about August 10, 2016, and again on or about August 15, 2016, the
26 Division sent a letter to RESPONDENT's attorney, pursuant to NRS 233B and in response to
27 RESPONDENT'S letter appealing the violation, indicating that the Division intended to
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1 proceed with filing a Complaint with the Real Estate Commission covering the underlying
2 violations.

3 **CONCLUSIONS OF LAW**

4 The Commission, based upon the preponderance of the evidence, makes the following
5 legal conclusions:

6 1. RESPONDENT received proper notice of the hearing pursuant to NRS Chapters
7 645 and 233B and NAC Chapter 645.

8 2. Pursuant to NRS 645.630(2), the Commission finds that the following charges
9 specified in the Division's Complaint are true and supported by substantial evidence.

10 3. RESPONDENT violated NRS 645.633(1)(f) by entering into a Brokerage
11 Agreement and failing to include a fixed date of expiration.

12 4. RESPONDENT violated NRS 645.633(1)(h) by incompetently preparing the April
13 28, 2003, Exclusive Right to Sell Contract when she failed to provide her clients with a
14 compensation fee or commission schedule that was supposedly attached as Exhibit "B."

15 5. RESPONDENT violated NAC 645.610(e) pursuant to NAC 645.695(1), when
16 she advertised under the nickname "Missy," which is not the name under which
17 RESPONDENT is licensed by the Division.

18 **ORDER**

19 IT IS HEREBY ORDERED, upon a unanimous vote, that RESPONDENT shall pay to
20 the Division a total fine of \$13,132.94. The total fine reflects a fine of \$10,500.00 for
21 committing the above violations of law plus \$2,632.94 for hearing and investigative costs.
22 RESPONDENT shall pay the total fine to the Division within 180 days of the effective date of
23 this Order. The Division may institute debt collection proceedings for failure to timely pay the
24 total fine.

25 IT IS FURTHER ORDERED that RESPONDNET shall complete nine (9) hours of live
26 course continuing education, to include three (3) hours in each of the following areas: agency,
27 contracts, and ethics. The nine (9) hours shall not be counted towards the RESPONDENT'S
28 continuing education requirements and must be completed within 90 days of the effective date

1 of this Order.

2 The Commission retains jurisdiction for correcting any errors that may have occurred in
3 the drafting and issuance of this Decision.

4 This Order shall become effective on the 2ND day of DECEMBER, 2016.

5 REAL ESTATE DIVISION
6 STATE OF NEVADA

7
8 By: 
9 Commissioner, Nevada Real Estate Commission

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12 Attorney General

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