

DEC 30 2015

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

REAL ESTATE COMMISSION
BY *[Signature]*

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

Case No. RES 12-12-10-179

Petitioner,

vs.

DECISION

CARMEN THOMAS,

Respondent.

This matter came on for hearing before the Nevada Real Estate Commission, State of Nevada on Wednesday, December 16, 2015, at the Department of Employment, Training, and Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, Nevada, and on Thursday, December 17, 2015, at the Henderson City Hall, Council Chambers, 240 Water Street, Henderson, Nevada. Respondent Carmen Thomas ("RESPONDENT") appeared and testified at the hearing, and was represented by legal counsel, Frank M. Flansburg III, Esq. Keith E. Kizer, Deputy Attorney General, appeared and prosecuted the Complaint on behalf of petitioner Joseph R. Decker, 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:

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 is licensed by the Division as a Salesperson under license number S.0065745, since May 2, 2005, and is in active status.
2. RESPONDENT is 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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1 3. At all times relevant to the Complaint, RESPONDENT was associated with
2 broker Jesus Esparza ("Esparza") at City National Properties LLC.

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

6 5. On or about October 7, 2010, RESPONDENT directed Vargas to purchase blank
7 money orders totaling \$5,000.

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

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

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

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

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

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

16 12. RESPONDENT informed Vargas that his funds were with the mortgage
17 company.

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

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

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

25 16. RESPONDENT asked Vargas for, and received from Vargas, a \$400 money
26 order made payable to Santiago Tavera ("Tavera").

27 17. Tavera allegedly inspected the Property.

28 ...

1 18. Tavera did not hold a Nevada Inspector of Structure Certificate when he
2 allegedly performed the inspection.

3 19. When Vargas complained to RESPONDENT about her actions, RESPONDENT
4 replied that she was not concerned if Vargas filed a complaint with the Division because her
5 husband is an attorney.

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

8 21. On or about December 23, 2011, Esparza informed the Division that
9 RESPONDENT failed to place in his custody Vargas's deposit or other money entrusted to
10 RESPONDENT.

11 22. Esparza also informed the Division that RESPONDENT failed to provide
12 paperwork to him within five calendar days after that paperwork was executed by Vargas.

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

16 24. That letter submitted by RESPONDENT to the Division was not written or signed
17 by Vargas, and the information contained therein was false.

18 **CONCLUSIONS OF LAW**

19 The Commission, based upon the preponderance of the evidence, makes the following
20 legal conclusions:

21 25. RESPONDENT received proper notice of the hearing pursuant to NRS Chapters
22 645 and 233B and NAC Chapter 645.

23 26. Pursuant to NAC 645.860, the Commission finds that the following charges
24 specified in the Complaint are true and supported by substantial evidence.

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

28 . . .

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

3 29. RESPONDENT violated NRS 645.630(1)(h) by comingling Vargas's money with
4 her own.

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

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

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

11 **ORDER**

12 IT IS HEREBY ORDERED, upon a four to one vote, that RESPONDENT shall pay to
13 the Division a total fine of \$33,029.14. The total fine reflects a fine of \$30,000.00 for
14 committing the above violations of law plus \$3,029.14 for hearing and investigative costs.
15 RESPONDENT shall pay the total fine to the Division within six (6) months of the effective
16 date of this Order. The Division may institute debt collection proceedings for failure to timely
17 pay the total fine.

18 IT IS FURTHER ORDERED that RESPONDENT's real estate license is hereby
19 **REVOKED.**

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

22 This Order shall become effective on the 5th day of February, 2016.

23 DATED this 30th day of December, 2015.

24 REAL ESTATE DIVISION
25 STATE OF NEVADA

26
27 By:
28 President, Nevada Real Estate Commission