

FILED

DEC 21 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. RE 13-05-01-310

Petitioner,

vs.

**STIPULATION AND ORDER FOR
SETTLEMENT
OF DISCIPLINARY ACTION**

KAMYAR ZARGARI,

Respondent.

This Stipulation for Settlement of Disciplinary Action (Stipulation) is entered into between the Petitioner, State of Nevada, Department of Business and Industry, Real Estate Division (Division), through its Administrator, Joseph R. Decker, and Respondent, KAMYAR ZARGARI ("Respondent").

JURISDICTION

1. Respondent stipulates and agrees that he was at all relevant times, licensed in Nevada by the Division as alleged in the Complaint. Respondent agrees that he is subject to Nevada Revised Statutes (NRS) Chapter 645 and Nevada Administrative Code (NAC) Chapter 645 and to the jurisdiction of the Division and the Commission.

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT

2. RESPONDENT, at the relevant times mentioned in this Complaint, was licensed as a Broker, license number B.1000830.CORP, and a property manager under permit number PM.0163796.BKR and is currently active and subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

3. At all relevant times RESPONDENT was the broker and property manager for Triumph Property Management.

4. RESPONDENT managed property located at 1792 Lily Pond Circle, Henderson Nevada ("the property") for the owner.

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

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1 5. On or about July 7, 2011, RESPONDENT entered into a lease agreement for the
2 property with Rasheda Bailey.

3 6. RESPONDENT collected security deposit from Ms. Bailey of \$1,035.00.

4 7. On August 8, 2011 a move-in inspection was completed and a Move-In/Move-
5 Out Checklist was completed with Ms. Bailey and Ms. Garcia who signed as agent of owner.

6 8. The lease was rescinded by mutual agreement effective March 31, 2012.

7 9. RESPONDENT failed to complete the Move-Out Checklist.

8 10. Despite numerous requests, Ms. Bailey did not receive any portion of her
9 security deposit unit May 25, 2012 via check #16507 dated May 17, 2012 in the amount of
10 \$405.

11 11. RESPONDENT states via affidavit that he mailed a check and security deposit
12 transmittal to Ms. Bailey at the Lily Pond address on April 26, 2012.

13 12. Check number 16507 is dated April 27, 2012.

14 13. RESPONDENT submitted to the Division two checks numbered 16507; one
15 dated April 27, 2012 and one dated May 17, 2012.

16 14. No itemized written accounting of the disposition of the security deposit was sent
17 with the May 17, 2012 check.

18 15. Ms. Bailey had, previous to April 27, 2012, called and left a forwarding address
19 with RESPONDENT's receptionist. Further, Ms. Bailey filed change of address with the US
20 postal service.

21 16. All of the deductions from the security deposit were as a result of issues listed
22 on the Move-In Checklist or normal wear and tear.

23 17. After numerous requests for her security deposit, Ms. Bailey attempted to
24 resolve this matter through the Neighborhood Justice Center.

25 18. RESPONDENT did not respond or declined to participate in dispute mediation.

26 19. Ms. Bailey filed a small claims action against RESPONDENT.

27 20. Even after numerous appeals by RESPONDENT, he was ordered to pay Ms.
28 Bailey her full security deposit of \$1,035 plus \$115 in costs.

1 **SUMMARY OF VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

2 21. RESPONDENT violated NRS 645.630(1)(f) pursuant to NRS 118A242 for failing
3 to account for and remit security deposit within a reasonable time.

4 **DISCIPLINE AUTHORIZED**

5 22. For each violation of NRS 645 and/or NAC 645, the Commission is empowered
6 to impose an administrative fine of not more than \$10,000.00 per violation. For each violation
7 of NRS 645 and/or NAC 645, the Commission is also empowered to suspend, revoke or place
8 conditions on the license of Respondent. Pursuant to NRS 622.400, the Commission is
9 authorized to impose the costs of this proceeding upon the Respondent, including
10 investigative costs and attorney's fees.

11 **SETTLEMENT**

12 23. The Division was prepared to present its case based upon the Complaint filed
13 with the Commission and the Respondent was prepared to defend against the Complaint.

14 24. Respondent concedes only that the Division has sufficient evidence to proceed
15 with its Complaint against him, but does not concede or admit to such allegations, which he
16 expressly denies, and which, but for his desire to reach this compromise, he would contest at
17 the formal hearing of this matter. Accordingly, in order to resolve the matter without incurring
18 further costs and expense of providing a defense to the Complaint or to any other further
19 amended Complaint, and in exchange for the waiver of Respondent's foregoing rights,
20 Respondent has entered into this Agreement, and agrees that the Division may find that
21 Respondent engaged in conduct that is grounds for discipline pursuant to NRS 645.630(1)(f)
22 pursuant to NRS 118A.242, for failing to account for and remit security deposit within a
23 reasonable time.

24 25. Respondent agrees to pay to the Division two thousand dollars (\$2,000.00) in an
25 administrative fine and five hundred (\$500.00) in costs for a total of two thousand five hundred
26 (\$2,500.00) within 6 months of the date of the Commission's Order Approving Stipulation, in
27 accordance with the below schedule of installment payments.

28 26. The first payment of \$500.00 shall be due within 30 days of the effective date of

1 the Commission's Order Approving Stipulation. Then five additional installment payments of
2 \$400.00 shall be due on the 15th day of each month following the initial payment, until the
3 administrative fine is paid in full. No grace period is permitted. Any installment payment not
4 actually received by the Division on or before its due date shall be construed as an event of
5 default by the Respondent.

6 27. In the event of default, Respondent agrees that his license and permit shall be
7 immediately suspended, the unpaid balance of the administrative fine shall become
8 immediately accelerated, and the unpaid balance, together with any attorney's fees and costs
9 that may have been assessed, shall be due in full to the Division within ten calendar days of
10 the date of default. Respondent agrees that the suspension of his license and permit shall
11 continue until the unpaid balance is paid in full. Further, debt collection actions for unpaid
12 monetary assessments in this case may be instituted by the Division.

13 28. Respondent agrees to attend three hours of Ethics and six hours of Property
14 Management designated courses, all to be completed within six months of the Effective Date of
15 the Commission's Order Approving Stipulation. The hours must be live education and will not
16 count towards Respondent's continuing education requirements. Respondent agrees that his
17 license and permit shall be immediately suspended if he fails to timely attend and complete the
18 above continuing education. Respondent agrees that the suspension of his license and permit
19 shall continue until the continuing education is completed.

20 29. The Division agrees not to pursue any other or greater remedies or fines in
21 connection with Respondent's alleged conduct referenced herein.

22 30. Respondent and the Division agree that by entering into this Stipulation, the
23 Division does not concede any defense or mitigation Respondent may assert and that once
24 this Stipulation is approved and fully performed, the Division will close its file in this matter.

25 31. Respondent agrees that if the administrative fine is not paid within the time
26 period set forth hereinabove, or the continuing education is not timely completed, the Division
27 may, at its option, rescind this Stipulation and proceed with prosecuting the Complaint before
28 the Commission.

1 32. Respondent agrees and understands that by entering into this Stipulation,
2 Respondent is waiving his right to a hearing at which Respondent may present evidence in his
3 defense, his right to a written decision on the merits of the complaint, his rights to
4 reconsideration and/or rehearing, appeal and/or judicial review, and all other rights which may
5 be accorded by the Nevada Administrative Procedure Act, the Nevada Real Estate Brokers
6 and Salespersons statutes and accompanying regulations, and the federal and state
7 constitutions. Respondent understands that this Agreement and other documentation may be
8 subject to public records laws. The Commission members who review this matter for approval
9 of this Stipulation may be the same members who ultimately hear, consider and decide the
10 Complaint if this Stipulation is either not approved by the Commission or is not timely
11 performed by Respondent. Respondent fully understands that he has the right to be
12 represented by legal counsel in this matter at his own expense.

13 33. Each party shall bear its own attorney's fees and costs.

14 34. Stipulation is Not Evidence. Neither this Stipulation nor any statements made
15 concerning this Stipulation may be discussed or introduced into evidence at any hearing on
16 the Complaint, if the Division must ultimately present its case based on the Complaint filed in
17 this matter.

18 35. Approval of Stipulation. Once executed, this Stipulation will be filed with the
19 Commission and will be placed on the agenda for approval at its December 2015 public
20 meeting. The Division will recommend to the Commission approval of the Stipulation.
21 Respondent agrees that the Commission may approve, reject, or suggest amendments to this
22 Stipulation that must be accepted or rejected by Respondent before any amendment is
23 effective.

24 36. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
25 amendments unacceptable to Respondent, Respondent may withdraw from this Stipulation
26 and the Division may pursue its Complaint before the Commission at the Commission's next
27 regular public meeting.

28 37. Release. In consideration of execution of this Stipulation, the Respondent for

1 himself or herself, his or her heirs, executors, administrators, successors, and assigns, hereby
2 release, remise, and forever discharge the State of Nevada, the Department of Business and
3 Industry and the Division, and each of their respective members, agents, employees and
4 counsel in their individual and representative capacities, from any and all manner of actions,
5 causes of action, suits, debts, judgments, executions, claims, and demands whatsoever,
6 known and unknown, in law or equity, that the Respondent ever had, now has, may have, or
7 claim to have, against any or all of the persons or entities named in this section, arising out of
8 or by reason of the Division's investigation, this disciplinary action, and all other matters
9 relating thereto.

10 38. Indemnification. Respondent hereby indemnifies and holds harmless the State
11 of Nevada, the Department of Business and Industry, the Division, and each of their
12 respective members, agents, employees and counsel in their individual and representative
13 capacities against any and all claims, suits, and actions brought against said persons and/or
14 entities by reason of the Division's investigation, this disciplinary action and all other matters
15 relating thereto, and against any and all expenses, damages, and costs, including court costs
16 and attorney fees, which may be sustained by the persons and/or entities named in this
17 section as a result of said claims, suits, and actions.

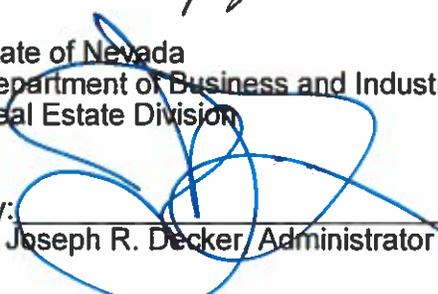
18 39. Respondent has signed and dated this Stipulation only after reading and
19 understanding all terms herein.

20
21 Dated: 12/9/2015

By: 
KAMYAR ZARGARK, Respondent

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23 Dated: 12/16/15

State of Nevada
Department of Business and Industry
Real Estate Division

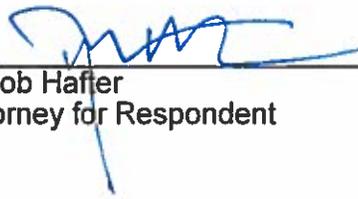
24
25
26 By: 
Joseph R. Decker / Administrator

27
28 Approved as to form:

1 ADAM PAUL LAXALT
2 Attorney General

Hafer Law

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4 By: 
5 Kimberly A. Arguello
6 Senior Deputy Attorney General
7 Attorney for the Real Estate Division

8 By: 
9 Jacob Hafer
10 Attorney for Respondent

11 **ORDER APPROVING STIPULATION**

12 The Stipulation for Settlement of Disciplinary Action having come before the Real
13 Estate Commission, Department of Business and Industry, State of Nevada, during its regular
14 agenda on December 16, 2015, and the Commission being fully apprised in the
15 premises, and good cause appearing,

16 IT IS ORDERED that the above Stipulation is approved in full.

17 This Order shall become effective on the 5th day of February, 2015.

18 Dated this 16th day of December, 2015.

19 NEVADA REAL ESTATE COMMISSION

20 By: 
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