

JUN 03 2016

REAL ESTATE COMMISSION
BY *[Signature]*

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6 **BEFORE THE REAL ESTATE COMMISSION**

7 **STATE OF NEVADA**

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

Case No.: RES 14-10-22-135

Petitioner,

12 vs.

13 FREDERICK (FRED) BRILMAN,

14 Respondent.

15 **ANSWER**

16 Respondent Frederick "Fred" Brilman (hereinafter "Respondent") by and through his
17 attorneys of record, the law firm of Marquis Aurbach Coffing, hereby answers Petitioner's
18 Complaint as follows. Given that Petitioner has required this Answer be filed by May 27, 2016,
19 Respondent's Answer will primarily deal with the specific factual allegations in the Complaint,
20 and Respondent will reserve his right to file a brief prior to any hearing on the Complaint to
21 argue the legal and factual reasons why the Commission should find no violations occurred
22 under NRS 645.633(1)(i) or NRS 645.635(6), and no administrative penalty or other discipline
23 should be imposed.

24 **FACTUAL ALLEGATIONS**

25 1. In answering Paragraph 1 of Petitioner's Complaint, Respondent admits the
26 allegations set forth in Paragraph 1 were accurate as of the date the Complaint was filed, but
27 denies that his license is inactive at this time.
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1 of Petitioner's Complaint, including the contention that the Blairgowrie Trust transferred real
2 property.

3 12. In answering Paragraph 12 of Petitioner's Complaint, Respondent admits that on
4 or about January 11, 2013, Vertucci transferred the Blairgowrie property to Crown as trustee for
5 the Blairgowrie Trust (in which Vertucci was the principle beneficiary). Respondent denies any
6 and all remaining allegations contained in Paragraph 12 of Petitioner's Complaint.

7 13. In answering Paragraph 13 of Petitioner's Complaint, Respondent admits that the
8 Exclusive Authorization and Right to Sell, Exchange or Lease Brokerage Listing Agreement was
9 executed by both Respondent and Fraser on or about January 14, 2013, but denies that Fraser
10 signed in any capacity other than as a Manager of Crown, the 2638 Blairgowrie Drive trustee..

11 14. In answering Paragraph 14 of Petitioner's Complaint, Respondent admits that he
12 and Fraser caused the Blairgowrie property to be leased, but denies that it was exclusively for
13 their benefit (as it was principally for the benefit of Vertucci).

14 15. In answering Paragraph 15 of Petitioner's Complaint, Respondent admits the
15 allegations contained therein.

16 16. In answering Paragraph 16 of Petitioner's Complaint, Respondent admits that on
17 or about October 9, 2013, he and Fraser executed a quitclaim deed as Managers of Crown, the
18 2638 Blairgowrie Drive trustee, which transferred the Blairgowrie property from the Blairgowrie
19 Trust back to Vertucci. Respondent denies any and all contrary allegations contained in
20 Paragraph 16 of Petitioner's Complaint.

21 17. In answering Paragraph 17 of Petitioner's Complaint, Respondent admits the
22 allegations contained therein.

23 18. In answering Paragraph 18 of Petitioner's Complaint, Respondent admits the
24 allegations contained therein.

25 19. In answering Paragraph 19 of Petitioner's Complaint, Respondent denies the
26 allegations contained therein, as all of the documents requested were produced (aside from the
27 management agreement that never existed), and any delay in the production thereof was solely
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1 due to the advice and/or misunderstanding of counsel (which went undisputed by Petitioner) and
2 Petitioner's refusal to meet with Respondent in person to discuss these transactions.

3 **IONA ISLAND PROPERTY**

4 20. In answering Paragraph 20 of Petitioner's Complaint, Respondent admits that on
5 or about December 6, 2012, he, as Manager of Crown (which held a recorded Power of Attorney
6 for Michael Braganza ("Braganza")), executed an Irrevocable Trust Agreement (the "Iona
7 Trust") on behalf of Braganza as grantor, and on behalf of the Iona Trust trustee (Crown).
8 Respondent denies any and all contrary allegations contained in Paragraph 20 of Petitioner's
9 Complaint, including the contention that the Iona Trust transferred real property.

10 21. In answering Paragraph 21 of Petitioner's Complaint, Respondent admits that on
11 or about December 12, 2012, the Exclusive Authorization and Right to Sell, Exchange or Lease
12 Brokerage Listing Agreement was executed by Respondent, as the selling broker's designated
13 licensee, and Fraser, a Manager of Crown, as trustee for the Iona Trust.¹ Respondent denies any
14 and all contrary allegations contained in Paragraph 21 of Petitioner's Complaint.

15 22. In answering Paragraph 22 of Petitioner's Complaint, Respondent admits that
16 Braganza transferred the Iona property to Crown as trustee for the Iona Trust. Respondent
17 denies that the transfer occurred on December 17, 2012, and denies any and all remaining
18 allegations contained in Paragraph 22 of Petitioner's Complaint.

19 23. In answering Paragraph 23 of Petitioner's Complaint, Respondent admits that he
20 and Fraser caused the Iona property to be leased, but denies that it was solely for their benefit, as
21 it was primarily for the benefit of Braganza.

22 24. In answering Paragraph 24 of Petitioner's Complaint, Respondent admits the
23 allegations contained therein.

24 25. In answering Paragraph 25 of Petitioner's Complaint, Respondent admits that he
25 and Fraser executed a quitclaim deed as Managers of Crown, the trustee of the Iona Trust, and
26 thereby transferred the Iona property back to Braganza, but contends that they did so on more
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28 ¹ See NRED 000238 at ¶ 29.

1 than one occasion and that the deed that was finally recorded was executed by them on
2 December 16, 2013. Respondent denies any and all contrary allegations contained in Paragraph
3 25 of Petitioner's Complaint.

4 26. In answering Paragraph 26 of Petitioner's Complaint, Respondent admits the
5 allegations contained therein.

6 27. In answering Paragraph 27 of Petitioner's Complaint, Respondent denies the
7 allegations contained therein as Respondent has provided a copy of the Iona Trust, and any delay
8 in the production thereof was solely due to the advice and/or misunderstanding of counsel (which
9 went undisputed by Petitioner) and Petitioner's refusal to meet with Respondent in person to
10 discuss these transactions.

11 **WHISPERING WIND PROPERTY**

12 28. In answering Paragraph 28 of Petitioner's Complaint, Respondent admits the
13 allegations contained therein.

14 29. In answering Paragraph 29 of Petitioner's Complaint, Respondent denies the
15 allegations contained therein.

16 30. In answering Paragraph 30 of Petitioner's Complaint, Respondent denies the
17 allegations contained therein.

18 31. In answering Paragraph 31 of Petitioner's Complaint, Respondent admits the
19 allegations contained therein.

20 32. In answering Paragraph 32 of Petitioner's Complaint, Respondent denies the
21 allegations contained therein, because Respondent could not refuse to provide a document that
22 does not exist (and in this case there was no trust agreement for the Whispering Wind property).

23 **MORNING SKYLINE PROPERTY**

24 33. In answering Paragraph 33 of Petitioner's Complaint, Respondent admits that on
25 August 20, 2012 (not August 21, 2012), Emilio B. Braganza and Ping C. Braganza (collective
26 the "Braganzas") transferred the Morning Skyline property to Crown as the trustee for the 1257
27 Morning Skyline Court Trust ("Morning Skyline Trust"). Respondent denies any and all
28 remaining or contrary allegations contained in Paragraph 33 of Petitioner's Complaint.

1 Cove Trust (Crown). Respondent denies any and all contrary allegations contained in Paragraph
2 35 of Petitioner's Complaint.

3 41. In answering Paragraph 41 of Petitioner's Complaint, Respondent admits that on
4 September 18, 2012 (not September 19, 2012), Howell transferred the Shannon Cove property to
5 Crown as trustee for the Shannon Cove Trust. Respondent denies any and all remaining and/or
6 contrary allegations contained in Paragraph 41 of Petitioner's Complaint.

7 42. In answering Paragraph 42 of Petitioner's Complaint, Respondent admits the
8 allegations contained therein.²

9 43. In answering Paragraph 43 of Petitioner's Complaint, Respondent admits that on
10 or about September 20, 2012, he, as the broker's designated licensee, executed an Exclusive
11 Authorization and Right to Sell, Exchange or Lease Brokerage Listing Agreement, and that
12 Fraser signed the agreement as a Manager of Crown, the trustee for the Shannon Cove Trust.
13 Respondent denies any and all contrary allegations contained in Paragraph 43 of Petitioner's
14 Complaint.

15 44. In answering Paragraph 44 of Petitioner's Complaint, Respondent admits that he
16 and Fraser caused the Shannon Cove property to be leased, but denies that it was exclusively for
17 their benefit (as it was principally for the benefit of Howell).

18 45. In answering Paragraph 45 of Petitioner's Complaint, Respondent admits the
19 allegations contained therein.³

20 46. In answering Paragraph 46 of Petitioner's Complaint, Respondent admits that he
21 and Fraser executed several deeds that purport to transfer the Shannon Cove property to Howell,
22 including the deed executed on June 28, 2013, which was not recorded until November 14, 2013,
23 which they signed as managers of Crown, the Trustee of the Shannon Cove Trust.⁴ Respondent
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25 _____
26 ² See NRED 000364-000365.

27 ³ See NRED 000377-000378.

28 ⁴ See NRED 000467-000468.

1 denies any and all remaining and/or contrary allegations contained in Paragraph 46 of
2 Petitioner's Complaint.

3 47. In answering Paragraph 47 of Petitioner's Complaint, Respondent admits the
4 allegations contained therein.

5 48. In answering Paragraph 48 of Petitioner's Complaint, Respondent denies the
6 allegations contained therein, as all of the documents requested were produced (aside from the
7 management agreement that never existed), and any delay in the production thereof was solely
8 due to the advice and/or misunderstanding of counsel (which went undisputed by Petitioner) and
9 Petitioner's refusal to meet with Respondent in person to discuss these transactions.

10 **WILLOW PINES PROPERTY**

11 49. In answering Paragraph 49 of Petitioner's Complaint, Respondent admits that on
12 March 6, 2013 (not March 8, 2013), Nicholas A. Fischella ("Fischella") transferred the Willow
13 Pines property to Crown as the trustee for the 7981 Willow Pines Place Trust. Respondent
14 denies any and all remaining and/or contrary allegations contained in Paragraph 49 of
15 Petitioner's Complaint.

16 50. In answering Paragraph 50 of Petitioner's Complaint, Respondent admits that he
17 and Fraser caused the Willow Pines property to be leased, but denies that it was exclusively for
18 their benefit (as it was principally for the benefit of Fischella).

19 51. In answering Paragraph 51 of Petitioner's Complaint, Respondent admits the
20 allegations contained therein.

21 52. In answering Paragraph 52 of Petitioner's Complaint, Respondent admits that on
22 July 2, 2013 (not July 19, 2013), he executed a deed in his capacity as Manager for Crown, the
23 trustee for the 7981 Willow Pines Place Trust, which transferred the Willow Pines property to
24 Fischella. Respondent denies any and all contrary allegations contained in Paragraph 52 of
25 Petitioner's Complaint.

26 53. In answering Paragraph 53 of Petitioner's Complaint, Respondent admits the
27 allegations contained therein.

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VIOLATIONS

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2 61. In answering Paragraph 61 of Petitioner's Complaint, Respondent denies the
3 allegations contained therein, which are so vague and ambiguous that they violate Respondent's
4 constitutional rights to due process by failing to identify the specific conduct which allegedly
5 constitutes deceitful, fraudulent or dishonest dealing.

6 62. In answering Paragraph 62 of Petitioner's Complaint, Respondent denies the
7 allegations contained therein, as all of the documents requested were produced (to the extent they
8 actually existed), and any delay in the production thereof was solely due to the advice and/or
9 misunderstanding of counsel (which went undisputed by Petitioner) and Petitioner's refusal to
10 meet with Respondent in person to discuss these transactions.

DISCIPLINE AUTHORIZED

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12 63. In answering Paragraph 63 of Petitioner's Complaint, Respondent is without
13 knowledge or information sufficient to form a belief as to the truth of the allegations contained
14 therein, and therefore, denies the same.

15 64. In answering Paragraph 64 of Petitioner's Complaint, Respondent is without
16 knowledge or information sufficient to form a belief as to the truth of the allegations contained
17 therein, and therefore, denies the same.

18 65. In answering Paragraph 65 of Petitioner's Complaint, Respondent is without
19 knowledge or information sufficient to form a belief as to the truth of the allegations contained
20 therein, and therefore, denies the same.

AFFIRMATIVE DEFENSES

21
22 1. Respondent contends that all actions he took with respect to the subject properties
23 set forth in the Complaint were performed in furtherance of the interest of the seller of the
24 property.

25 2. Respondent contends that he treated all parties involved in the transactions
26 described in the Complaint fairly.

27 3. Respondent attempted to disclose all relevant facts to all necessary parties, and
28 was not attempting to deceive or defraud anybody in any way.

1 4. Respondent sought the advice of legal counsel and experts at First American Title
2 Company prior to taking any of the actions described in the Complaint, and was assured that
3 such conduct was legal and appropriate.

4 5. Respondent did not benefit in any significant manner from the rents collected on
5 the subject properties, given that such funds were used primarily to provide a substantial initial
6 payment (as well as additional subsequent payments) to the seller, repair the property, and pay
7 other expenses incurred in these transactions.

8 6. To Respondent's knowledge, nobody was harmed in any way due to
9 Respondent's conduct in the subject transactions and, in fact, many, including the seller,
10 foreclosing lender, and renter, all benefitted from Respondent's conduct.

11 7. The allegations contained in Petitioner's Complaint fail to identify the specific
12 conduct which allegedly constitutes deceitful, fraudulent, or dishonest dealing, and, therefore,
13 Petitioner has not provided Respondent with appropriate notice necessary for Respondent to
14 prepare for a hearing on these charges.

15 8. Petitioner's conduct in refusing to meet with Respondent and failing to challenge
16 the conclusions of Respondent's counsel with regard to whether or not certain documents should
17 be provided to Petitioner were the sole causes of Respondent's delay in providing copies of
18 documents to Petitioner. As soon as the allegation was explained to Respondent's counsel by the
19 Attorney General's office, all such documents were produced.

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PRAYER FOR RELIEF

WHEREFORE, Respondent prays for judgment from the Commission as follows:

1. That Petitioner's Complaint be dismissed with prejudice;
2. For a ruling exonerating Respondent from the alleged violations; and
3. Any further relief as the Commission deems to be just and proper.

Dated this 27th day of May, 2016.

MARQUIS AURBACH COFFING

By 
Scott A. Marquis, Esq.
Nevada Bar No. 6407
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Respondent

CERTIFICATE OF MAILING

1
2 I hereby certify that on the 27th day of May, 2016, I served a copy of the foregoing
3 ANSWER upon each of the parties by depositing a copy of the same in a sealed envelope in the
4 United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

5 Joseph R. Decker, Administrator
6 State of Nevada, Department of Business and Industry
7 Real Estate Division
8 2501 East Sahara Avenue
9 Las Vegas, NV 89104-4137
10 *Petitioner*

11 Keith E. Kizer, Esq.
12 Deputy Attorney General
13 555 East Washington Avenue, Suite 3900
14 Las Vegas, NV 89101
15 *Attorney for Petitioner*

16 and that there is a regular communication by mail between the place of mailing and the places so
17 addressed.



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Katie Johnson, an employee of
Marquis Aurbach Coffing