

FILED

BEFORE THE REAL ESTATE COMMISSION

OCT 31 2013

STATE OF NEVADA

REAL ESTATE COMMISSION
Robert Smith

GAIL J. ANDERSON, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. RES 13-04-11-299

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

DAVID M. MARK,

Respondent.

The State of Nevada, Department of Business and Industry, Real Estate Division ("the DIVISION"), through its legal counsel, CATHERINE CORTEZ MASTO, Attorney General of the State of Nevada, by KIMBERLY A. ARGUELLO, Senior Deputy Attorney General, hereby notifies DAVID M. MARK ("MARK" or "RESPONDENT") of an administrative hearing, which is to be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

The purpose of the hearing is to consider the allegations set forth herein and to determine if Respondent, DAVID M. MARK, should be subject to an administrative penalty as set forth in NRS 645.630, if the allegations set forth herein are proven by the evidence presented at the time of the hearing.

JURISDICTION

MARK was, at relevant times mentioned in this Complaint, licensed as a salesperson by the Division and is, therefore, subject to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC Chapter 645.

GENERAL ALLEGATIONS

1. DAVID M. MARK, at all relevant times, was licensed by the Division as a Salesperson under license number S.0072514 from June 2006 to September 2008. Thereafter, RESPONDENT was licensed by the Division as a Broker Salesperson under license number BS.0072514. RESPONDENT's license is currently expired.

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

1 2. MARK is subject to the jurisdiction of the Division and the provisions of NRS
2 Chapter 645 and NAC 645.

3 3. On April 11, 2013, MARK was found guilty in the United States District Court of
4 the felonies of Conspiracy to Commit Bank Fraud, Mail Fraud and Wire Fraud, Title 18, United
5 States Code, Sections 1344; two counts of Bank Fraud, Title 18, United States Code,
6 Sections 1344 and 1342; and one count of Mail Fraud, Title 18, United States Code Sections
7 1341 and 1342.

8 4. The felonies that MARK has been found to be guilty of stem directly from acts
9 done in his capacity as a licensed real estate salesperson committed between March 2006 to
10 December 2007.

11 5. As part of the conspiracy, MARK obtained money and property by causing false
12 information regarding straw buyers' employment, income and assets to be placed in the straw
13 buyers' applications and supporting documentation to obtain mortgage loans from financial
14 institutions to purchase residential real estate. Through these transactions MARK's
15 coconspirators obtained control of approximately 227 properties and obtained money from
16 financial institutions by causing the money from the mortgage loans to be diverted for their
17 own use. The total purchase price of the properties was greater than \$107,000,000.

18 6. MARK solicited straw buyers and caused them to apply for mortgage loans
19 containing materially false information for loans and mortgage payments that he knew they
20 could not afford and did not intend to make.

21 7. MARK made and caused offers to purchase properties above asking price and
22 caused the sellers to agree that the excess funds be redirected to coconspirators under the
23 pretense of making upgrades or repairs to the properties.

24 8. To complete the straw buyers' transactions, MARK caused financial institutions,
25 escrow and title companies to transmit money and documents via US mail, interstate wire
26 communications and interstate commercial carriers.

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1 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative
2 Code.

3 **THE HEARING WILL TAKE PLACE December 10, 2013 commencing at 8:30 a.m.,**
4 **or as soon thereafter as the Commission is able to hear the matter, and each day**
5 **thereafter commencing at 8:30 a.m. through December 12, 2013, or earlier if the**
6 **business of the Commission is concluded. The Commission meeting will be held at the**
7 **Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada**
8 **89101 and via video conference to the Legislative Building, 401 South Carson Street,**
9 **Room 3137, Carson City, Nevada 89701. The meeting will continue on December 11,**
10 **2013 at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las**
11 **Vegas, Nevada 89101 and via video conference to the Legislative Building, 401 South**
12 **Carson Street, Room 3137, Carson City, Nevada 89701, commencing at 8:30 a.m., and**
13 **on December 12, 2013, starting at 8:30 a.m. at the Grant Sawyer Building, 555 East**
14 **Washington Avenue, Room 4401, Las Vegas, Nevada 89101 and via video conference to**
15 **the Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada**
16 **89701.**

17 **STACKED CALENDAR: Your hearing is one of several hearings scheduled at the**
18 **same time as part of a regular meeting of the Commission that is expected to last from**
19 **December 10 through December 12, 2013, or earlier if the business of the Commission**
20 **is concluded. Thus, your hearing may be continued until later in the day or from day to**
21 **day. It is your responsibility to be present when your case is called. If you are not**
22 **present when your hearing is called, a default may be entered against you and the**
23 **Commission may decide the case as if all allegations in the complaint were true. If you**
24 **have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-**
25 **4074.**

26 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an
27 open meeting under Nevada's open meeting law, and may be attended by the public. After
28 the evidence and arguments, the commission may conduct a closed meeting to discuss your

1 alleged misconduct or professional competence. A verbatim record will be made by a certified
2 court reporter. You are entitled to a copy of the transcript of the open and closed portions of
3 the meeting, although you must pay for the transcription.

4 As the Respondent, you are specifically informed that you have the right to appear and
5 be heard in your defense, either personally or through your counsel of choice. At the hearing,
6 the Division has the burden of proving the allegations in the complaint and will call witnesses
7 and present evidence against you. You have the right to respond and to present relevant
8 evidence and argument on all issues involved. You have the right to call and examine
9 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant
10 to the issues involved.

11 You have the right to request that the Commission issue subpoenas to compel
12 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
13 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
14 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
15 233B, and NAC 645.810 through 645.920.

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1 The purpose of the hearing is to determine if the Respondent has violated NRS 645
2 and if the allegations contained herein are substantially proven by the evidence presented and
3 to further determine what administrative penalty is to be assessed against the
4 RESPONDENT, if any, pursuant to NRS 645.235.

5 DATED this 31st day of October, 2013.

6 State of Nevada
7 Department of Business and Industry
8 Real Estate Division

9 By: Gail J. Anderson
10 Gail J. Anderson, Administrator
11 2501 East Sahara Avenue
12 Las Vegas, Nevada 89104-4137
13 (702) 486-4033

14 CATHERINE CORTEZ MASTO
15 Attorney General

16 By: Kimberly A. Arguello
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