BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

FILED

DEC 30 2015

REAL ESTATE COMMISSION BY

JOSEPH R. DECKER, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. MATTHEW DERCOLE, Respondent.	Case No. 2015-2200 **DECISION**

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. Respondent Matthew Dercole ("RESPONDENT") appeared and testified under oath at the hearing. 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 as a Salesperson, under license number S.0062613 since July 27, 2004, and is currently in active status.

2. At all times relevant to the Complaint, RESPONDENT was associated with broker Deborah Emley at Prominent Realty Group LLC.

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3. At all times relevant to the Complaint, Paul Busscher and Edward Duarte owned the real property at 5683 Titanium Avenue, Las Vegas, Nevada (the "Property").

4. The Property was not occupied on or about July 22, 2015, but was looked after by a caretaker.

5. On or about July 22, 2015, RESPONDENT used his real estate agent passcode to assess the Property's lockbox and enter the Property.

6. Soon thereafter, a woman arrived at the Property to meet with RESPONDENT.

7. Soon thereafter, the woman performed oral sex on RESPONDENT.

8. RESPONDENT never obtained authorization from Busscher and Duarte, or their agent, to enter the Property for a non-real estate transaction.

9. RESPONDENT never obtained authorization from Busscher and Duarte, or their agent, to engage in sexual activity at the Property.

10. RESPONDENT's sexual activity was caught on the Property's closed-circuit television ("CCTV").

11. RESPONDENT initially denied to the Property caretaker that RESONDENT had engaged in sexual activity at the Property until he was informed of the CCTV footage.

12. RESPONDENT offered Busscher and Duarte $1,000 if they declined to file a complaint against RESPONDENT with the Division.

13. On or about July 30, 2015, Busscher and Duarte filed a Statement of Fact with the Division complaining about RESPONDENT's conduct.

14. On or about August 3, 2015, Emley filed a Statement of Fact with the Division complaining about RESPONDENT's conduct.

15. On or about September 1, 2015, RESPONDENT provided an affidavit to the Division in which he admitted to entering the Property and having sexual activity therein without authorization.

CONCLUSIONS OF LAW

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

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

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

18. RESPONDENT violated NRS 645.633(1)(h) and/or (i) by entering the Property for an unauthorized purpose unrelated to a real estate transaction.

19. RESPONDENT violated NRS 645.633(1)(i) by engaging in sexual activity at the Property without authorization.

ORDER

IT IS HEREBY ORDERED, upon a three to two vote, that RESPONDENT shall pay to the Division a total fine of $10,610.00. The total fine reflects a fine of $10,000.00 for committing the above violations of law plus $610.00 for hearing and investigative costs. RESPONDENT shall pay the total fine to the Division within six (6) months of the effective date of this Order. The Division may institute debt collection proceedings for failure to timely pay the total fine.

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

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

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

DATED this 30th day of November, 2015.

REAL ESTATE DIVISION
STATE OF NEVADA

By: [signature]

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