

FILED
AUG 31 2016
REAL ESTATE COMMISSION
BY *[Signature]*

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

SHARATH CHANDRA, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No.: 2015-1825

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

MARY E. MCQUATTIE,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Peter Keegan, Deputy Attorney General, hereby notifies RESPONDENT MARY E. MCQUATTIE ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held pursuant to Chapter 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NAC 645.610 and/or NAC 645.695 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker Salesperson, License Number BS.0023321, and is therefore subject to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC Chapter 645.

FACTUAL ALLEGATIONS

1. RESPONDENT has been licensed as a Broker Salesperson, License Number BS. 0023321, since October 3, 1989, and is currently in active status.

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1 2. RESPONDENT was formerly licensed as a Broker, License Number
2 B.0062491.INDV, from August 20, 2004 until August 31, 2005.

3 3. RESPONDENT was also formerly licensed as a Broker, License Number
4 B.0023321.CORP, from March 10, 1992 until November 01, 2012.

5 4. RESPONDENT was the principal broker of Commercial Industrial Real Estate
6 Services ("CIRES").

7 5. RESPONDENT is currently a Broker Salesperson employed by Chase
8 International.

9 6. On or about April 28, 2003, Jim and Alex Kingzett and Marco and Karen Fiorello,
10 entered into an Exclusive Right to Sell Contract, which engaged CIRES to list and sell real
11 property referred to as the Geothermal Rail Industrial Development, LLC ("GRID") and
12 Geothermal Resources Industrial Park ("GRIP").

13 7. The April 28, 2003, Exclusive Right to Sell Contract contained a termination date
14 pursuant to NRS 645.320 of April 27, 2006.

15 8. In the Exclusive Right to Sell Contract, RESPONDENT either failed to provide a
16 copy of Exhibit "B," the referenced compensation fee, or the commission schedule that was
17 supposed to be attached thereto.

18 9. RESPONDENT failed to include a compensation fee or Commission schedule in
19 the April 28, 2003, Exclusive Right to Sell Contract.

20 10. Between May 12, 2003 and August 15, 2003, Marco and Karen Fiorello, Jim
21 Kingzett and Alexander Kingzett, the managers of GRID and GRIP, entered into a contract
22 titled "Agreement to Transfer Ownership with Frasier Investments, LLC, ("Frasier")" by and
23 through its President Mary E. McQuattie and Richard M. Gunkel.

24 11. The Agreement to Transfer Ownership transferred an 8% ownership interest in
25 the GRID properties to Frasier, as well as a 6% ownership interest in the GRIP properties to
26 Frasier.

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1 12. In paragraph 13 of the Agreement to Transfer Ownership, the parties agreed to
2 use CIRES, and its principal broker, Mary E. McQuattie, as its sole Real Estate Broker.

3 13. Paragraph 13 further contained a reference to Exhibit "D," which was the
4 Schedule of Sale and Lease Commissions the parties agreed to pay CIRES.

5 14. Neither the Agreement to Transfer Ownership or Exhibit "D" thereto contained a
6 termination date as required by NRS 645.320.

7 15. RESPONDENT'S failure to prepare a complete Brokerage Agreement that
8 complied with NRS 645.320 has resulted in protracted and on-going litigation between the
9 parties over the claims by RESPONDENT that she is entitled to on-going Commissions
10 related to sales of the GRIP and GRID properties.

11 16. Since joining Chase International as a Broker Salesperson, RESPONDENT has
12 advertised her services under the nickname "Missy," which is not the name under which
13 RESPONDENT is licensed with the Division.

14 17. On or about March 23, 2015, the Division received a Complaint from counsel for
15 the Fiorellos and Kingzets.

16 18. On or about July 6, 2015, the Division sent RESPONDENT an Opening Letter
17 indicating that an investigation had commenced concerning the March 23, 2015, Complaint
18 and requesting a response from RESPONDENT.

19 19. After receiving an extension to respond to the July 6, 2015, Opening Letter, a
20 response was submitted by RESPONDENT's counsel on August 3, 2015, which contested the
21 allegations in the Complaint.

22 20. On or about May 31, 2016, the Division sent RESPONDENT a Notice of
23 Violation with Imposition of Administrative Fine, which required RESPONDENT to pay a
24 \$1,000.00 fine pursuant to NRS 645.633, NAC 645.610, and NAC 646.695.

25 21. On or about June 9, 2016, RESPONDENT sent the Division a letter indicating
26 she wished to appeal the violation.

27 22. On or about August 10, 2016, and again on or about August 15, 2016, the
28 Division sent a letter to RESPONDENT'S attorney, pursuant to NRS 233B, and in response to

1 RESPONDENT'S letter appealing the violation, indicating that the Division intended to
2 proceed with filing a complaint for hearing with the Real Estate Commission covering the
3 underlying violations.

4 **VIOLATIONS**

5 RESPONDENT has committed the following violations of law:

6 23. RESPONDENT violated NRS 645.633(1)(f) by entering into a Brokerage
7 Agreement and failing to include a fixed date of expiration.

8 24. RESPONDENT violated NRS 645.633(1)(h) by incompetently preparing the April
9 28, 2003, Exclusive Right to Sell Contract when she failed to provide her clients with a
10 compensation fee or commission schedule that was supposedly attached as Exhibit "B."

11 25. RESPONDENT further violated NRS 645.633(1)(h) pursuant to NAC 645.610(e)
12 or alternatively NAC 645.610(e) pursuant to NAC 645.695(1), by displaying incompetence
13 when she advertised under the nickname "Missy," which is not the name under which
14 RESPONDENT is licensed by the Division.

15 **DISCIPLINE AUTHORIZED**

16 26. Pursuant to NRS 645.630 and NRS 645.633, the Commission is authorized to
17 impose an administrative fine of up to \$10,000.00 per violation against RESPONDENT and
18 further to suspend, revoke or place conditions on the license of RESPONDENT.

19 27. Pursuant to NAC 645.695, the Commission is authorized to impose an
20 administrative fine of up to \$500.00 per violation of NAC 645.610 against RESPONDENT and
21 to further suspend, revoke or place conditions on the license of RESPONDENT.

22 28. Additionally, under NRS Chapter 622, the Commission is authorized to impose
23 costs of the proceeding upon RESPONDENT, including investigative costs and attorney's
24 fees, if the Commission otherwise imposes discipline on RESPONDENT.

25 29. Therefore, the Division requests that the Commission take such disciplinary action
26 as it deems appropriate under the circumstances.

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1 court reporter. You are entitled to a copy of the transcript of the open and closed portions of
2 the meeting, although you must pay for the transcription.

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

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

15 The purpose of the hearing is to determine if the Respondent has violated NRS 645
16 and/or NAC 645 and if the allegations contained herein are substantially proven by the
17 evidence presented and to further determine what administrative penalty, if any, is to be
18 assessed against the Respondent, pursuant to NRS, 645.633 and/or 645.630 and/or NAC
19 645.695.

20 DATED this 31st day of AUGUST, 2016.

21 State of Nevada
22 Department of Business and Industry
23 Real Estate Division

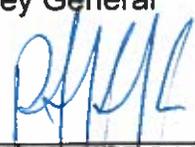
24 By: 
25 SHARATH CHANDRA, Administrator
26 2501 East Sahara Avenue
27 Las Vegas, Nevada 89104-4137
28 Telephone: (702) 486-4033

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DATED this 29th day of August, 2016.

ADAM PAUL LAXALT
Attorney General

By: 

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Attorneys for Real Estate Division

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