

# BEFORE THE REAL ESTATE COMMISSION

111 0 3 2017

## STATE OF NEVADA

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

Case No. 2016-1734

BY WELL HOLD

Petitioner,

VS.

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GORDON ROBERT ALLRED,

Respondent.

## COMPLAINT AND NOTICE OF HEARING

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 Keith E. Kizer, Senior Deputy Attorney General, hereby notifies RESPONDENT GORDON ROBERT ALLRED ("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 RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.235 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

### **JURISDICTION**

RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, issued by the Division and is, therefore, subject to the jurisdiction of the Division and the Commission, and the provisions of NRS and NAC 645.

## FACTUAL ALLEGATIONS

 At all times relevant to this Complaint, RESPONDENT was not licensed by the Division in any capacity.

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- At all times relevant to this Complaint, RESPONDENT did not hold a Cooperative
  Certificate from the Division.
- 3. RESPONDENT is licensed with the California Bureau of Real Estate as a Broker, License No. 00927200.
- 4. At all times relevant to this Complaint, RESPONDENT was affiliated with Marcus & Millichap Real Estate Investment Services ("M&M") in Ontario, California.
- 5. In or about 2015 and 2016, RESPONDENT engaged in the offering, soliciting, and/or listing of a commercial property located at 1101 South Highway 160, Pahrump, Nevada ("Best Western") for another and for compensation or with the intention or expectation of receiving compensation.
- 6. On or about January 27, 2016, RESPONDENT signed an Interstate Brokerage Cooperation Agreement TURF STATE regarding the Best Western offering, which discusses compensation "if [he] has submitted a <u>Certificate of Cooperation</u> and received approval from the Nevada Real Estate Division that he/she may perform any acts (listing or selling) in the state of Nevada." (Emphasis in original.)
- 7. That agreement provides that "NO OUT-OF-STATE AGENT INFORMATION SHALL BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS." (Emphasis in original.)
- 8. M&M's Out of State Checklist for the Best Western offering indicates that RESPONDENT received Division Form 542 on which to apply for a Nevada Out-of-State Cooperative Certificate.
- 9. The advertising for the offering for sale of Best Western stated it was exclusively listed by RESPONDENT.
- RESPONDENT received a letter of intent from a party interested in buying Best
  Western.
- 11. The commission amount earned by M&M on the sale of Best Western was approximately \$249,000.00.

- 12. In or about 2015, RESPONDENT engaged in the offering, soliciting, and/or listing of a commercial property located at 650 West Front Street, Battle Mountain, Nevada ("Battle Mountain Inn") for another and for compensation or with the intention or expectation of receiving compensation.
- 13. M&M identified RESPONDENT as its Procuring Agent for the Battle Mountain Inn offering.
- 14. On or about February 10, 2015, RESPONDENT signed an Interstate Brokerage Cooperation Agreement TURF STATE regarding the Battle Mountain Inn offering, which discusses compensation "if [he] has submitted a **Certificate of Cooperation** and received approval from the Nevada Real Estate Division that he/she may perform any acts (listing or selling) in the state of Nevada." (Emphasis in original.)
- 15. That agreement provides that "NO OUT-OF-STATE AGENT INFORMATION SHALL BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS." (Emphasis in original.)
- 16. On or about March 22, 2015, RESPONDENT issued a memorandum regarding the Battle Mountain Inn offering, which states that "[o]nly in the event the Out-of-State licensee has obtained a Certificate of Cooperation from the Nevada Real Estate Division may he/she perform any acts (listing or selling) otherwise requiring a real estate license in Nevada.... THIS FORM MUST BE FILLED OUT, SUBMITTED AND APPROVED BY THE DIVISION PRIOR TO ACTIVATING IN THE SYSTEM." (Emphasis in original.)
- 17. In or about 2016, RESPONDENT engaged in the offering, soliciting, and/or listing of a commercial property located at 4300 West Tropicana Avenue, Las Vegas, Nevada ("Casino Development Site") for another and for compensation or with the intention or expectation of receiving compensation.
- 18. RESPONDENT was listed as the contact in the exclusive land offering advertisement for the offering for sale of the Casino Development Site.
- 19. RESPONDENT was listed as one of the contacts in other advertisements for the offering for sale of the Casino Development Site.
- 20. M&M identified RESPONDENT as its Procuring Agent for the Casino Development Site.

- 21. On or about February 9, 2015, RESPONDENT signed an Interstate Brokerage Cooperation Agreement TURF STATE regarding the Casino Development Site offering, which discusses compensation "if [he] has submitted a <u>Certificate of Cooperation</u> and received approval from the Nevada Real Estate Division that he/she may perform any acts (listing or selling) in the state of Nevada." (Emphasis in original.)
- 22. That agreement provides that "NO OUT-OF-STATE AGENT INFORMATION SHALL BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS." (Emphasis in original.)
- 23. On or about March 11, 2015, RESPONDENT issued a memorandum regarding the Casino Development Site offering, which states that "[o]nly in the event the Out-of-State licensee has obtained a Certificate of Cooperation from the Nevada Real Estate Division may he/she perform any acts (listing or selling) otherwise requiring a real estate license in Nevada.... THIS FORM MUST BE FILLED OUT, SUBMITTED AND APPROVED BY THE DIVISION PRIOR TO ACTIVATING IN THE SYSTEM." (Emphasis in original.)
- 24. RESPONDENT would be entitled to 34% of M&M's commission from the sale of the Casino Development Site.
  - 25. On or about April 7, 2016, the Division sent RESPONDENT a Cease & Desist Order.

#### **VIOLATIONS**

RESPONDENT has committed the following violations of law:

26. RESPONDENT violated NRS 645.230(1)(a) and/or NRS 645.235(1)(a) on three occasions by engaging in the business of, acting in the capacity of, or advertising or assuming to act as a real estate broker, real estate broker-salesperson, or real estate salesperson within the State of Nevada without first obtaining the appropriate license or certificate from the Division.

# DISCIPLINE AUTHORIZED

27. Pursuant to NRS 645.235, the Commission is empowered to impose an administrative fine in an amount not to exceed the amount of gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater, against RESPONDENT for each violation of NRS 645.235.

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- 28. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.
- 29. Therefore, the Division requests that the Commission take such disciplinary action as it deems appropriate under the circumstances.

#### NOTICE OF HEARING

PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider the Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE on August 15, 2017 commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through August 17, 2017, or earlier if the business of the Commission is concluded. The Commission meeting will be held on August 15, 2017, at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101. The meeting will continue on August 16, 2017 at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101 commencing at 9:00 a.m., and on August 17, 2017, should business not be concluded, starting at 9:00 a.m. at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101.

STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same time as part of a regular meeting of the Commission that is expected to last from August 15 through August 17, 2017, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-4074.

YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting under Nevada's Open Meeting Law, and may be attended by the public. After the evidence

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

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

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

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The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC 645 and if the allegations contained herein are substantially proven by the evidence presented and to further determine what administrative penalty, if any, is to be assessed against the Respondent, pursuant to NRS 645.235 and/or NRS 645.633.

DATED this 3 day of July, 2017.

State of Nevada

Department of Business and Industry

Real Estate Division

By:

SHARATH CHANDRA, Administrator

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