BEFORE THE REAL ESTATE COMMISSION STATE OF NEVADA



NOV 03 2016

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

Petitioner.

Case No. RES 14-06-04-1164

VS.

DONALD B. PARKER.

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 Donald J. Bordelove, Deputy Attorney General, hereby notifies RESPONDENT DONALD B. PARKER ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("COMMISSION"). The hearing will be held pursuant to Chapters 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 NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

RESPONDENT, at the relevant times mentioned in this Complaint, was licensed as a Broker under license numbers B.0037383.INDV and B.1001371.LLC and as a property manager under permits PM.0137383.BKR and PM.0166112.BKR and is currently in an active status under license number B.0037383.INDV and permit PM.0137383.BKR and is therefore subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

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FACTUAL ALLEGATIONS

- 1. Daryi Bryon DeShaw ("DeShaw") was an owner and salesperson of WC Realty and Property Management ("WC Realty"), under broker William Chin ("Chin").
- 2. Chin's broker's license was revoked by the Commission for embezzlement of client funds in or about March 2014.
- Thereafter, in or about April 2014, DeShaw formed Trust Realty & Property 3. Management, LLC ("Trust Realty") and hired RESPONDENT as his new broker.
- 4. DeShaw assumed the ownership of all of WC Realty management contracts without the consent of the property owners.
- 5. DeShaw's salesperson license was revoked by the Commission for embezzlement of client funds in or about December 2015.
- 6. From May 30, 2014 to November 10, 2014, sixteen (16) complaints were made against RESPONDENT for failure to remit owner rental payments and withholding of tenant security deposits.
- 7. On or about May 30, 2014, Rafael L. Rivera filed the first complaint against DeShaw, RESPONDENT, and Trust Realty concerning non-payment of his rental income for the months of April and May 2014.
- 8. On or about June 2, 2014, Maria Estela Lao filed a complaint concerning nonpayment of her May 2014 rental income.
- 9. On or about June 4, 2014, Xavier Plano, as power of attorney for his mother Vilma Plano (property owner), filed a complaint indicating that after receiving their April 2014 rent, they had not received payment since then.
- 10. On or about June 16, 2014, Jerry Hedrick filed complaint concerning late payment of April 2014 rental income and non-payment of rental income thereafter.
- 11. On or about June 23, 2014, Bernadita Salvador filed a complaint concerning non-payment of May and June 2014 rental income.
- 12. On or about June 25, 2014, Yolanda and Isagani Pantig filed a complaint concerning non-payment of May and June 2014 rental income.

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- 13. On or about June 25, 2014, Jennifer Pantig filed a complaint concerning nonpayment of May and June 2014 rental income.
- On or about July 3, 2014, Phillip Kowaleski filed a complaint concerning non-14. payment of May and June 2014 rental income as well as the security deposit for the property.
- 15. On or about July 14, 2014, Margarita Diestro filed a complaint concerning nonpayment of May and June 2014 rental income.
- On or about July 18, 2014, Isabel Covarrubias filed a complaint concerning non-16. payment of May, June and July 2014 rental income.
- 17. On or about August 6, 2014, Raymond Jung and Catherine Low filed a complaint concerning non-payment of June 2014 rental income.
- On or about August 20, 2014, Julia Low and Peter Hui filed a complaint 18. concerning non-payment of June and July 2014 rental income.
- 19. On or about September 8, 2014, Juanita Kerrick filed a complaint concerning non-payment of July and August 2014 rental income.
- 20. On or about September 8, 2014, Steve and Tracy Nguyen filed a complaint concerning non-payment of August and September 2014 rental income.
- 21. On or about November 7, 2014, Mark Pierre-Louis filed a complaint concerning non-payment of August 2014 rental income and the tenant's security deposit.
- 22. RESPONDENT failed to remit rents collected and security deposits held to the above owners and tenants.
- 23. A subpoena was sent to JP Morgan Chase for IMT Group, LLC dba Trust Realty bank accounts.
- 24. Bank records for three accounts were received by the Division; accounts ending 2768, 3256, 3008, 5680 and 1982.
 - 25. There were no accounts labeled as trust accounts.
 - 26. RESPONDENT was a signor on all Trust Realty bank accounts.

VIOLATIONS

RESPONDENT has committed the following violations of law:

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- 27. RESPONDENT violated NRS 645.310(4) by failing to maintain designated trust accounts.
- 28. RESPONDENT violated NRS 645.630(1)(f) by failing to account for and remit client funds within a reasonable time.
- 29. RESPONDENT violated NRS 645.660(3) by failing to maintain adequate supervision of a sales licensee under his brokerage.
- RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or 30. incompetence in performing any act for which the person is required to hold a license pursuant to NAC 645.605(1) by failing to do his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate, and NAC 645.605(6) by breaching his obligation of absolute fidelity to his principal's interest.

DISCIPLINE AUTHORIZED

- 31. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend, revoke or place conditions on the license of RESPONDENT.
- 32. 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.
- 33. 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 December 5, 2016 commencing at 1:00 p.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 December 7, 2016, or earlier if the business

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of the Commission is concluded. The Commission meeting will be held on December 5, 2016, at the Grant Sawyer Building, Gaming Control Board, 555 East Washington Avenue, Room 2450, Las Vegas, Nevada 89101. The meeting will continue on December 6, 2016 at the Nevada Department of Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, NV 89104, commencing at 9:00 a.m., and on December 7, 2016, should business not be concluded, starting at 9:00 a.m. at the Nevada Department of Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, NV 89104.

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 December 5 through December 7, 2016, 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

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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 witness' 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 645.875.

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 is to be assessed against the Respondent, if any, pursuant to NRS 645.633 and/or NRS 645.630 and/or NRS 622,400.

DATED this 1st day of November, 2016.

State of Nevada

Department of Business and Industry

Real Estate Division

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