

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2016-3017

Petitioner,

vs.

TOD A. WEVER,

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 TOD A. WEVER ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE 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 was at all relevant times mentioned in this Complaint licensed by the Division as a salesperson under license number BS.0144020 MGR until licensed by the Division as a broker under license number B.0144020.LLC, and as a property manager under permit number PM.0163809.BKR, and is therefore subject to the jurisdiction of the Division and the Commission and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

- 1. Rex F. Henriott ("Henriott") was the broker for Henriott Real Estate Services, LLC.

1 2. On or about July 12, 2016, Henriott's real estate licenses and property management
2 permit were revoked by the Commission for converting the money of others to his own use as well as
3 ordered to pay to the Division a total amount of \$251,348.04.

4 3. On or about April 27, 2015, RESPONDENT received a letter from JD Evans, Esq. on
5 behalf of Henriott notifying RESPONDENT that Henriott was resigning as his broker, and
6 RESPONDENT would need to obtain a new broker.

7 4. RESPONDENT indicated that as of May 28, 2015, he "became the new broker to
8 replace Rex Henriott of Henriott Real Estate Services, LLC" and formed a new brokerage named Real
9 Management of Las Vegas, LLC ("RPMLV").

10 5. On or about September 11, 2015, RESPONDENT filed a Statement of Fact with the
11 Division, complaining about Henriott allegedly stealing monies from the brokerage trust account.

12 6. On or about July 18, 2016, Scott Troelsen ("Troelsen") filed a Statement of Fact with
13 the Division, complaining of Respondent's conduct as further detailed below.

14 7. Troelsen indicated that he originally hired RPMLV to manage his properties in Las
15 Vegas, NV as he was currently living in New York.

16 **Bushnell Drive Unit**

17 8. Troelsen's first contact and knowledge of RESPONDENT was when the washing
18 machine in the Bushnell unit broke.

19 9. On or about February 27, 2015, RESPONDENT was charged \$300.00 to repair the
20 machine.

21 10. On or about March 10, 2014, RESPONDENT was charged an additional \$215.00 to
22 allegedly replace a bearing on the machine.

23 11. Troelsen was only contacted by RPMLV after RMPLV charged this initial \$515.00 to
24 inform Troelsen that the repair cost would be higher.

25 12. RESPONDENT contacted Troelsen stating he was the owner of RPMLV and informed
26 Troelsen that he must make a decision within 24 hours.

27 13. Troelsen then contacted the tenant to inquire about the size of the washer/dryer as it has
28 been replaced just 3 years prior.

1 14. The tenant then informed Troelsen that the washing machine had been removed from the
2 premises.

3 15. RESPONDENT indicated that he was unaware that the machine had been removed and
4 did not know why it had been.

5 16. As such, in addition to the \$515.00 charged to Troelsen, Troelsen paid an addition
6 \$1,359.83 for a new unit.

7 17. Troelsen did not have a clear understanding of the situation as he was charged for the
8 repairs, repairs that were not made, and the machine went missing.

9 18. RESPONDENT indicated that the \$515 charge was an "accounting error" or "billing
10 error", \$300 was the correct charge, and \$215 was refunded to Troelsen.

11 19. RMPLV never actually refunded said \$215 to Troelsen, instead claiming the money
12 would be used to offset other expenses allegedly owed to RMPLV.

13 **Flamingo Road Property**

14 20. On behalf of Troelsen, RESPONDENT managed a property located at 8375 W.
15 Flamingo Road, Suite 100, Las Vegas, Nevada ("Flamingo Road Property").

16 21. In or about June 2015, Troelsen retired and decided to manage his Las Vegas properties.

17 22. Troelsen requested RPMLV to give the tenant notice for the Flamingo Road Property so
18 his mother could move in.

19 23. Upon the tenant's move out of the Flamingo Road Property, Mike Mangarsarian from
20 RPMLV performed a final inspection and determined deductions from the security deposit.

21 24. The inspection noted several potential deductions, and RPMLV asked Troelsen whether
22 he wanted to make those deductions.

23 25. Troelsen was eventually informed that the tenant's security deposit was stolen by
24 Henriott (only after Troelsen gave notice to terminate RPMLV's management, as further detailed
25 below, upon requesting Troelsen to sign a Release of Security Deposit for the Bushnell Drive Unit).

26 26. Troelsen (nor the tenant) was informed of the theft at the time of the deductions request
27 despite RESPONDENT's knowledge of such.

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1 27. RPMLV charges Troelsen \$55/quarter to visit properties and make sure the tenant was
2 keeping the property in good condition.

3 28. Troelsen informed the Division that he was "disturbed by the condition of the
4 apartment" as RPMLV charges him these fees and never informed him of any conditions within the
5 unit.

6 29. On or about October 11, 2016, Ellen Baylon ("Baylon") filed a Statement of Fact with
7 the Division complaining of RESPONDENT's conduct, specifically that her security deposit was not
8 returned 30 days after her August 31, 2016 move out date for the Flamingo Road Property.

9 30. Baylon indicated on September 28, 2016, she received a letter from RPMLV indicated
10 that Henriott stole these funds.

11 31. RESPONDENT informed Baylon to send a letter to small claims court.

12 **Respondent's Subsequent Conduct**

13 32. On or about April 5, 2016, Troelsen gave notice to RPMLV that he no longer wanted
14 them managing his properties.

15 33. On or about April 11, 2016, RMPLV informed Troelsen that the transition would take
16 roughly 30 days to complete.

17 34. As such, by early May (on or about May 4, 2016) the termination would be complete
18 and any funds due and owing would be returned.

19 35. RMPLV also informed Troelsen that "final papers" would need to be signed.

20 36. RMPLV presented Troelsen with a "Release of Security Deposit" form which purported
21 to make Troelsen responsible for returning the security deposit to the tenant in the Bushnell Drive Unit.

22 37. It was only at this time that RESPONDENT contacted Troelsen and informed him that
23 the security deposit had been stolen by Henriott.

24 38. RESPONDENT falsely informed Troelsen that the Division had told him not to tell the
25 tenants of the theft.

26 39. Troelsen indicated that he found it difficult to believe that RESPONDENT was told not
27 to inform of the theft.
28

1 40. Troelsen further indicated that RESPONDENT never informed Troelsen initially that
2 RESPONDENT was the new owner of the management company.

3 41. As such, Troelsen contacted the Division and was told that they could not believe
4 RESPONDENT informed Troelsen to hide the theft and recommended that Troelsen immediately start
5 the recovery process, as well as sent Troelsen the appropriate information to do so.

6 42. On or about May 18, 2016, RESPONDENT offered to give Troelsen back the security
7 deposit for the Bushnell Drive Unit if Troelsen gave RESPONDENT a 5 star review.

8 43. On or about May 27, 2016, Troelsen refused to do so.

9 44. Yelp.com advises not to “ever offer ... payment in exchange for reviews – it will turn off
10 savvy customers, and may also be illegal. Yelp has a Consumer Alters program to let people know
11 about businesses that engage in this sort of activity.”

12 45. RESPONDENT also presented Troelsen with a “Release of Security Deposit” for
13 Flamingo Property, as RESPONDENT did for the Bushnell Drive Unit.

14 46. On or about April 5, 2016, when Troelsen gave notice to RPMLV that he no longer
15 wanted them managing his properties, he also indicated that RMPLV notify the tenant in Bushnell
16 Drive Unit of such, that the May rent payment should be sent to Troelsen, and that all items related to
17 the Unit should be sent to Troelsen (such as keys, leases, and the security deposit).

18 47. RMPLV failed to do as Troelsen requested in a timely manner including notifying the
19 tenant or informing the tenant where to send the rental payments.

20 48. Finally, Troelsen was charged by RMPLV, on or about May 20, 2016, for a \$165.00
21 “spring A/C tune up” after RPMLV had been terminated.

22 49. Troelsen did not authorize this subsequent charge after termination.

23 VIOLATIONS

24 RESPONDENT has committed the following violations of law:

25 1. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
26 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
27 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC
28 645.605(1) by not doing his utmost to protect the public against fraud, misrepresentation or unethical

1 practices related to real estate, including by attempting to buy positive reviews from Complainant in
2 exchange for return of the stolen security deposit.

3 2. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
4 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
5 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC
6 645.605(6) by breaching his obligation of absolute fidelity to his principal's interest, including
7 RESPONDENT's actions, knowledge, and/or charges related to the repairs at the Bushnell Drive Unit.

8 3. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
9 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
10 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC
11 645.605(6) by breaching his obligation of absolute fidelity to his principal's interest, including
12 improperly charging Complainant for quarterly inspections and/or failing to inform Complainant of
13 conditions within the Flamingo Road Property.

14 4. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
15 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
16 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC
17 645.605(6) by breaching his obligation of absolute fidelity to his principal's interest, including failing
18 to timely inform the tenant in the Bushnell Drive Unit that RESPONDENT was no longer managing
19 said Unit.

20 5. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
21 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
22 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC
23 645.605(6) by breaching his obligation of absolute fidelity to his principal's interest, including
24 improperly charging Complainant for a "spring A/C tune up" after RPMLV had been terminated.

25 6. RESPONDENT violated NRS 645.252(1)(a) and (2) by failing to disclose as soon as
26 practicable any material and relevant facts or information which the licensee knows, or which by the
27 exercise of reasonable diligence should have known, including failing to notify the tenant and/or owner
28 at the time of RESPONDENT's knowledge of Henriott's theft.

1 **DISCIPLINE AUTHORIZED**

2 1. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose
3 an administrative fine of up to \$10,000 per violation against RESPONDENT and further to
4 suspend, revoke or place conditions on the license of RESPONDENT.

5 2. Pursuant to NRS 645.252 and NAC 645.695, the Commission is empowered to impose
6 an administrative fine of \$500 per violation of NRS 645.252 against RESPONDENT and further to
7 suspend, revoke or place conditions on the license of RESPONDENT including completing continuing
8 education.

9 3. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of
10 the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the
11 Commission otherwise imposes discipline on RESPONDENT.

12 4. Therefore, the Division requests that the Commission take such disciplinary action as it
13 deems appropriate under the circumstances.

14 **NOTICE OF HEARING**

15 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider the
16 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
17 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

18 **THE HEARING WILL TAKE PLACE** on December 5, 2017 commencing at 9:00 a.m., or
19 as soon thereafter as the Commission is able to hear the matter, and each day thereafter
20 commencing at 9:00 a.m. through December 7, 2017, or earlier if the business of the Commission
21 is concluded. The Commission meeting will be held on December 5, 2017, at the Nevada State
22 Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada
23 89102. The meeting will continue on December 6, 2017 at the Nevada State Business Center, 3300
24 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00
25 a.m., and on December 7, 2017, should business not be concluded, starting at 9:00 a.m. at the
26 Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas,
27 Nevada 89102.

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1 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same
2 time as part of a regular meeting of the Commission that is expected to last from December 5
3 through December 7, 2017, or earlier if the business of the Commission is concluded. Thus, your
4 hearing may be continued until later in the day or from day to day. It is your responsibility to be
5 present when your case is called. If you are not present when your hearing is called, a default
6 may be entered against you and the Commission may decide the case as if all allegations in the
7 complaint were true. If you have any questions please call Rebecca Hardin, Commission
8 Coordinator (702) 486-4074.

9 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an open
10 meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and
11 arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or
12 professional competence. A verbatim record will be made by a certified court reporter. You are
13 entitled to a copy of the transcript of the open and closed portions of the meeting, although you must
14 pay for the transcription.

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

21 You have the right to request that the Commission issue subpoenas to compel witnesses to
22 testify and/or evidence to be offered on your behalf. In making the request, you may be required to
23 demonstrate the relevance of the witness' testimony and/or evidence. Other important rights you have
24 are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

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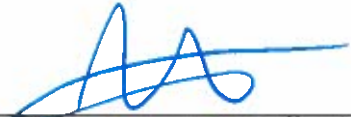
1 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or
2 NAC 645 and if the allegations contained herein are substantially proven by the evidence
3 presented and to further determine what administrative penalty is to be assessed against the
4 RESPONDENT, if any, pursuant to NRS 645.235, 645.633 and or 645.630.

5 DATED this 15th day of November, 2017.

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

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