

FILED

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REAL ESTATE COMMISSION  
BY *Emily Tatter*

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2017-1715

Petitioner,

vs.

TERRY NELSON,

Respondent.

**RESPONDENT TERRY NELSON'S MOTION TO DISMISS**

COMES NOW Respondent, TERRY NELSON ("Nelson"), by and through her counsel of record, Richard L. Elmore, Esq. of the law firm of Richard L. Elmore, Chartered, and pursuant to NAC 645.840, requests that this Commission dismiss the Real Estate Division's Complaint against her, as follows:

**I. OVERVIEW**

The Nevada Real Estate Division has filed a complaint against Nelson that alleges seven (7) violations that pertain to a number of property transactions in which Nelson, a real estate broker and agent, was involved over several years. The Division's alleged violations essentially address five categories:

1. Unfair Commission Offerings (Violation No. 1)
2. Earnest Money Deposits (Violation Nos. 2 and 5)
3. MLS Listings (Violation No. 3)
4. Disclosures (Violation No. 4)
5. Waivers (Violation Nos. 6 and 7)

1 Counsel for the Division has agreed to stipulate to dismiss Violation No. 3, which  
2 alleges that Nelson delayed placement of fifteen (15) of the properties identified in the  
3 complaint on the MLS past the 48 hour period specified in the Exclusive Right to Sell  
4 Agreement. Because Nelson, in each instant identified by the Division in its complaint,  
5 had obtained waivers from her clients in reference to the 48 hour MLS listing period  
6 and forwarded those waivers to counsel for the Division, counsel for the Division has  
7 agreed that the Division cannot pursue that violation.

8 The remaining Violations in the Division's complaint are either being used to  
9 weaponize the State against Nelson in violation of anti-trust laws or, on their face, fail  
10 to state any claim against Nelson in relation to the authority on which they are based.  
11 Thus, Nelson requests that the Commission dismiss the Division's complaint against  
12 her.

## 13 **II. ARGUMENT**

14 The "Unfair Commission Offerings" basis for Violation No. 1 (the alleged unfair  
15 commission offerings) of the complaint is nothing more than an effort to weaponize the  
16 State against Nelson in violation of anti-trust laws. Moreover, the Division fails to  
17 allege the threshold and qualifying requirements for the applicability of the authority on  
18 which they rely in support of Violation Nos. 2 and 5 (the alleged earnest money deposit  
19 violations). Because the Division's allegations in support of Violation No. 3 (regarding  
20 the MLS listings) are contrary to the facts as they relate to the transactions that the  
21 Division identified in its complaint, counsel for the Division has stipulated to dismiss  
22 Violation No. 3. The Division fails to state any basis on which the Commission can  
23 make a finding adverse to Nelson regarding its allegations in support of Violation No.  
24 4, which alleges that Nelson, as the seller's agent, failed to disclose her marriage to the  
25 buyer's agent in some of the transactions identified in the Complaint. Finally, the  
26 Division's allegations supporting Violation Nos. 6 and 7 (the alleged waiver violations)  
27 are obviated by the waivers that Nelson obtained from her clients and, therefore, fail to  
28 state a basis on which the Commission can make a finding adverse to Nelson. Thus,

the Division cannot support or maintain its complaint against Nelson.

**A. *The “Unfair Commission Offerings” basis for Violation No. 1 of the complaint is nothing more than an effort to weaponize the State against Nelson in violation of anti-trust laws.***

Violation No. 1 in the Division’s complaint alleges that Nelson violated NRS 645.633(1)(h) and/or NAC 645.605(6) on 21 occasions (all of the properties identified in the complaint) by not dealing fairly with sellers by offering undesirable commission, or no commission, to buyer’s broker and, in so doing, obstructing the fair market and limiting prospective buyers. Complaint at 33, ¶ 1. Rather than calling this claim what it clearly is – alleged unfairness to buyers’ agents (for which there is no authority to allege a violation) – the Division puts the focus on the sellers by alleging that Nelson did not represent the sellers with absolute fidelity. Based on the Division’s allegations related to each of the properties to which this Violation relates<sup>1</sup>, this claim is *clearly* based on complaints by a competitor of Nelson, and not by any of the sellers that Nelson represented in any of the transactions identified in the complaint. To that end, it is an effort to use the State’s administrative process to impose a commission structure among realtors that violates anti-trust laws.

Notably, neither NRS 645.633(1)(h) nor NAC 645.605(6) impose on Nelson the obligation to ensure that the commissions she, as a seller’s agent, and her selling clients

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<sup>1</sup> See, i.e., Complaint at 3, ¶¶ 9, 12 (the Quail Street property); 4-5, ¶¶ 24, 29, 31 (the Tourmaline Drive property); 7-8, ¶¶ 50, 51, 62 (the Blossom View Drive property); 9-10, ¶¶ 66, 67 (the Lindley Way property); 10-11, ¶¶ 79, 82 (the Halifax Drive property); 12, ¶¶ 92, 94 (the Michaelsen Drive property); 13, ¶¶ 103, 105 (the Rolling Clouds Drive property); 14-15, ¶¶ 117, 120 (the L Street property); 16, ¶¶ 132, 134 (the West Canary Circle property); 17, ¶ 142 (the Flower Street property); 18-19, ¶¶ 152, 155, (the Tupelo Street property); 20, ¶¶ 166, 168 (the Parque Verde Lane property); 21-22, ¶¶ 180, 183 (the Matteoni Drive property – December 30, 2016, closing); 23, ¶¶ 191 the Matteoni Drive property – April 28, 2017, closing); 24, ¶¶ 201, 203 (the Tahoe Boulevard property); 25, ¶¶ 214, 217 (the 1920 Trainer Way property); 27, ¶¶ 229, 231 (the 1935 Trainer Way property); 28, ¶¶ 238, 240, (the Plumb Lane property); 29-30, ¶¶ 253, 255 (the Nevada Street property); 30-31, ¶¶ 262, 264 (the Locomotive Way property); 32, ¶¶ 272, 275, 284 (the Gemstone Drive property).

1 set include commission payments to buyers' agents. NRS 645.633(1)(h) permits the  
2 Commission to take action pursuant to NRS 645.630 against a licensee who "is guilty"  
3 of gross negligence or incompetence in performing any act for which the person is  
4 required to hold a real estate license. NAC 645.605(6) addresses the determination of  
5 whether a licensee has been guilty of gross negligence or incompetence under NRS  
6 645.633(1)(h). In relevant part, it states that, in determining whether a licensee has  
7 been guilty of gross negligence or incompetence, the Commission is to consider  
8 whether the licensee has breached her obligation to deal fairly with all parties to a real  
9 estate transaction. The complaint's focus on Nelson's fairness to the seller in reference  
10 to the alleged undesirable commissions to the buyer's agent as obstructing the fair  
11 market and limiting prospective buyers ignores: (1) that every single transaction  
12 identified in the complaint closed with a qualified buyer; and (2) that it is the seller's  
13 and the seller's agent's prerogative to decide what commission to offer to a buyer's  
14 agent in any listing agreement to sell real property. Indeed, nothing in NRS Chapter  
15 645 addresses what commission amounts or percentages are required to be paid to  
16 licensees in real estate transactions consummated in Nevada, nor does it define or  
17 address "unfavorable commissions" in the context of the basis for the Division's  
18 allegations supporting Violation No. 1. That is because anti-trust law does not  
19 authorize the real estate boards/commissions to impose a systematic use of fixed  
20 commission rates by real estate firms or brokers in a given area. See, i.e., See, United  
21 States v. National Association of Real Estate Boards, 339 U.S. 485, 70 S.Ct. 711 (1950)  
22 (because services provided by real estate agents are within the definition of "trade,"  
23 standard commission rates adopted by a real estate board/commission for its members  
24 constitutes a per se violation of the Sherman Antitrust Act) and McLain v. Real Estate  
25 Board of New Orleans, Inc., 444 U.S. 232, 100 S.Ct. 502 (1980); accord, Sherman  
26 Antitrust Act, 15 U.S.C. 1, et. seq.; see also NRS 598A.030(2) (Legislative declaration  
27 regarding NRS Chapter 598A (Unfair Trade Practices)), NRS 598A.050 (Construction  
28 of NRS Chapter 598A to be construed in harmony with prevailing judicial

1 interpretations of federal antitrust statutes), and 589A.060(1) (prohibited acts). To that  
2 end, for the Commission to entertain a violation claim that suggests that there should be  
3 some standard of establishing real estate commission rates for sellers' and buyers'  
4 agents in all real estate transactions would necessarily violate anti-trust laws. *Id.* Thus,  
5 because any finding by the Commission that Nelson did not "deal fairly" with her  
6 sellers (NAC 645.605(6)) by the "unfavorable" commissions that she and her clients  
7 offered to buyers' brokers would necessarily require a determination by the  
8 Commission regarding real estate commissions that would tread on anti-trust laws in  
9 violation of NRS Chapter 598A, there is no basis on which the Division can maintain  
10 its claim in Violation No. 1.

11 ***B. The Division fails to allege the threshold and qualifying requirements***  
12 ***for the applicability of the authority on which they rely in support of***  
13 ***Violation Nos. 2 and 5 (the alleged earnest money deposit violations).***

14 The Division's allegations supporting Violation Nos. 2 and 5 (Complaint at 34,  
15 ¶¶ 2 and 5) fail to include the threshold and qualifying requirements for the application  
16 of the authority to which the Division cites in support of the earnest money violations it  
17 alleges. Presumably, that is because the authority on which the Division relies does not  
18 apply to Nelson under the circumstances alleged. To that end, the omissions from the  
19 Division's allegations supporting Violation Nos. 2 and 5 are determinative, as follows:

20 ***1. Violation No. 2:***

21 Violation No. 2 accuses Terry of violating NRS 645.252 and/or NRS  
22 645.630(1)(k) on 18 occasions by failing to exercise reasonable skill and care to ensure  
23 that the buyer's earnest money was timely deposited within one (1) business day of the  
24 seller's acceptance, per the provisions of the Offer and Acceptance Agreement and,  
25 where applicable, the short sale addendum. The provision of NRS 645.252 applicable  
26 to this alleged violation states:

27 A licensee who acts as an agent in a real estate transaction . . . Shall  
28 exercise reasonable skill and care with respect to all parties to the real estate  
transaction.

1 NRS 645.252(2). NRS 645.630(1)(k) permits the Commission to impose certain  
2 disciplinary penalties on a licensee if that licensee is “found guilty” of:

3       Upon acceptance of an agreement, *in the case of a broker, failing to deposit*  
4       any check or cash received as earnest money before the end of the next  
5       banking day unless otherwise provided in the purchase agreement.

6       Initially, because NRS 645.252(2) does not specifically address a licensee’s  
7       handling of earnest money, it is NRS 645.630(1)(k) that is at issue and serves as the  
8       basis for the Division’s citation to the general “reasonable skill and care” provision of  
9       NRS 645.252 that appears to be addressed in the Division’s statement of Violation No.  
10       2.

11       To the extent that the Division’s citation to NRS 645.252(2) contemplates the  
12       more specific provision of NRS 645.630(1)(k)<sup>2</sup>, the two provisions address different  
13       standards of care/conduct. While NRS 645.252(2) contemplates a negligence standard  
14       in reference to the duties it imposes, NRS 645.630(1)(k) indicates a quasi-criminal  
15       standard based upon its language of “found guilty of” and the penalties that are  
16       available for such a violation.

17       Notwithstanding that discrepancy in those two provisions, and assuming that the  
18       conduct addressed in NRS 645.630(1)(k) is the basis for the Division’s allegation that  
19       Nelson failed to “exercise reasonable skill and care” in reference to how it claims she  
20       handled the earnest money in the eighteen (18) transactions to which it cites, the  
21       Division’s complaint fails to allege the fundamental requirements for this violation to  
22       come into play – that Nelson *received* any earnest money for the purpose of depositing  
23       it, or that she had any ability to actually *deposit* the money. *See* NRS 645.630(1)(k).  
24       Indeed, the subsection of NRS 645.630 that the Division cites as the basis of Violation  
25       No. 2 necessarily contemplates NRS 645.310, which addresses brokers’ deposits and  
26       trust accounts. For instance, NRS 645.310 states, in relevant part:

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27       <sup>2</sup>       On its own, NRS 645.252(2) is too general and broad to impose on any  
28       licensee the specific conduct addressed in NRS 645.630(1)(k).

1 If a real estate broker receives money, *as a broker*, which belongs to others,  
2 the real estate broker shall promptly deposit the money in a separate checking  
3 account located in a bank or credit union in this State which must be  
4 designated a trust account. All down payments, *earnest money deposits*, rents,  
5 or other money *which the real estate broker receives*, on behalf of a client or  
6 any other person, *must be deposited in the account* unless all persons who  
7 have any interest in the money have agreed otherwise in writing. A real estate  
broker may pay to any seller or the seller's authorized agent the whole or any  
portion of such special deposit. The real estate broker is personally  
responsible and liable for such deposit at all times. A real estate broker shall  
not permit any advance payment of money belonging to others to be deposited  
in the real estate broker's business or personal account or to be commingled  
with any money he or she may have on deposit.

8 See NRS 645.310(4).

9 In this case, *all* of the allegations in the Division's complaint that support the  
10 Division's allegation that Nelson "violated" NRS 645.252(2) and/or NRS  
11 645.630(1)(k) by failing to ensure that the buyer's earnest money was timely  
12 deposited within one (1) business day of the seller's acceptance identify First  
13 American Title Company, not Nelson, as the entity with which the earnest money  
14 checks were "deposited." Those allegations are summed up, as follows:

15 - For eleven (11) of the occasions identified in the Division's  
16 Complaint, the Receipt for Deposit from the Title Company (First American  
17 Title Company) for the buyer's earnest money deposit was dated between two  
18 (2) and (3) business days after the seller accepted the buyer's offer. See  
19 Complaint at 3, ¶¶ 14, 15, 16 (the Quail Street property); 5-7, ¶¶ 32, 33, 34,  
20 35, 39, 40, 41, 42 (the Tourmaline Drive property – two transactions); 8, ¶¶  
21 54, 55, 56, 57 (the Blossom View Drive property); 12-13, ¶¶ 97, 98, 99 (the  
22 Michaelsen Drive property); 18, ¶¶ 146, 147, 148 (the Flower Street  
23 property); 20-21, ¶¶ 170, 172, 173, 174 (the Parque Verde Lane property); 23,  
24 ¶¶ 195, 196, 197, 198 (the Matteoni Drive property); 25-26, ¶¶ 219, 221, 222,  
25 223 (the Trainer Way property); 30, ¶¶ 257, 258, 259 (the Nevada Street  
26 property); 31, ¶¶ 266, 267, 268 (the Locomotive Way property). In all but  
27 three of those transactions (those three properties being addressed in reference  
28



1 to Violation No. 5, below), the earnest money check was payable to First  
2 American Title Company.

3 - For five (5) of the occasions identified in the Division's  
4 complaint, the Receipt for Deposit from the Title Company (First American  
5 Title Company) for the buyer's earnest money deposit was dated between five  
6 (5) and eleven (11) business days after the seller accepted the buyer's offer.  
7 See Complaint at 13-14, ¶¶ 107, 111, 112, 113 (the Rolling Clouds Drive  
8 property); 15-16, ¶¶ 122, 126, 127, 128 (the L Street property); 19, ¶¶ 157,  
9 159, 160, 161 (the Tupelo Street property); 24, ¶¶ 205, 207, 208, 209 (the  
10 Tahoe Boulevard property); 28-29, ¶¶ 242, 244, 245, 246 (the Plumb Lane  
11 property). In all of those transactions, the earnest money check was payable  
12 to First American Title Company.

13 - For two (2) of the occasions identified in the Division's  
14 complaint, it was the Final Settlement Statement from First American Title  
15 Company that provided the information on which the Division relied  
16 regarding when the earnest money deposit was deposited in relation to date on  
17 which the seller accepted the buyer's offer. According to the title company's  
18 Final Settlement Statement for those transactions, one of the earnest money  
19 checks was deposited seven (7) business days after the seller accepted the  
20 buyer's offer (Complaint at 17, ¶¶ 136, 137, 138 – the West Canary Circle  
21 property), and the other was deposited approximately two (2) months after the  
22 seller accepted the buyer's offer (*Id.* at 32-33, ¶¶ 277, 279, 280, 281 – the  
23 Gemstone Drive property). In both of those transactions, the earnest money  
24 check was payable to First American Title Company.

25 Notably absent from the Division's allegations that relate to Violation No. 2, is a  
26 *single* allegation:

27 ///



- 1       -     that Nelson actually *received* any of the earnest money checks from her
- 2           clients, as required for the application of NRS 645.630(1)(k);
- 3       -     if she did *receive* those checks, that she had the ability to “deposit” that
- 4           money as required and contemplated by NRS 645.310 and NRS
- 5           645.630(1)(k); and/or
- 6       -     that Nelson had a trust account into which such a deposit could or would
- 7           be made (NRS 645.310).

8 In fact, the Division makes no allegations: (1) that Terry ever handled a single earnest  
9 money check; (2) that any of the earnest money checks alleged in the complaint were  
10 intended to be received by Terry for purposes of depositing that money into a trust  
11 account as described by NRS 645.310; or (3) that she, and not her clients, were the  
12 individuals who delivered the earnest money checks to First American Title Company.

13 On the other hand, each “Receipt for Deposit” referenced by the Division in the sixteen  
14 (16) occasions identified above that cite to Receipts for Deposit from the title company  
15 identify the buyer as the individual from whom the earnest money deposit was received  
16 by the Title Company. See the “Receipts for Deposit” provided by the Division in  
17 support of its complaint for sixteen of the occasions on which the Division bases its  
18 earnest money deposit violations (in order as listed above), attached as Exhibit 1. Not a  
19 single Receipt for Deposit identifies Nelson as the individual who delivered the earnest  
20 money check to the title complaint. Id. For the two (2) occasions that cite to the Title  
21 Company’s Final Settlement Statement as it concerns the earnest money deposit, those  
22 statements only identify deposits made by the buyer. See Final Settlement Statements  
23 provided by the Division in support of its complaint for two of the occasions on which  
24 the Division bases its earnest money deposit violations (in order as listed above),  
25 attached as Exhibit 2.

26       There are also no allegations that Nelson had any control over when First  
27 American Title Company, which received every single earnest money deposit check  
28 identified in the complaint, dated their Receipts for Deposit in relation to when the  
earnest money checks were delivered to First American Title Company. As noted  
above, for all but the first three of the properties identified, the earnest money checks

1 were made payable to First American Title Company. And as for the first three checks  
2 that were allegedly made out to Great Western Real Estate, the allegations and the  
3 Division's own documents (included in Exhibit 1) are that those checks were delivered  
4 to First American Title Company, not that they were intended to be deposited into a  
5 trust account that is governed by NRS 645.310 and necessarily intended in NRS  
6 645.630(1)(k). Thus, nothing in what the Division has alleged against Nelson in  
7 support of Violation No. 2 provides any basis on which it can pursue that claim against  
8 Nelson. and its own documents on which its allegations are based establish otherwise.  
9 See Exhibits 1 and 2.

10 2. Violation No. 5:

11 Violation No. 5 accuses Terry of violating NR 645.630(1)(f) and/or NRS  
12 645.252(2) on 3 occasions by failing to exercise reasonable skill and care to ensure that  
13 the buyer's earnest money check, which named Terry's broker (Great Western Real  
14 Estate) as payee, was accounted for within a reasonable time after remitted to title and  
15 escrow.

16 NRS 645.630(1)(f) permits the Commission to impose certain disciplinary  
17 penalties on a licensee if that licensee is "found guilty" of "Failing, *within a reasonable*  
18 *time*, to account for or to remit any money *which comes into his or her possession* and  
19 which belongs to others." NRS 645.252(2) requires a licensee who acts as an agent in a  
20 real estate transaction to exercise reasonable skill and care with respect to all parties to  
21 the real estate transaction.

22 As more fully addressed in response to Violation No. 2, above, NRS 645.252(2)  
23 does not specifically address a licensee's handling of money that comes into his or her  
24 possession. To that end, it is NRS 645.630(1)(f) that is at issue and serves as the basis  
25 for the Division's citation to the general "reasonable skill and care" provision of NRS  
26 645.252 that appears to be addressed in the Division's statement of Violation No. 5.

1 To the extent that the Division's citation to NRS 645.252(2) contemplates the  
2 more specific provision of NRS 645.630(1)(f)<sup>3</sup>, the two provisions address different  
3 standards of care/conduct. While NRS 645.252(2) contemplates a negligence standard  
4 in reference to the duties it imposes, NRS 645.630(1)(k) indicates a quasi-criminal  
5 standard based upon its language of "found guilty of" and the penalties that are  
6 available for such a violation.

7 Notwithstanding that discrepancy in those two provisions, and assuming that the  
8 conduct addressed in NRS 645.630(1)(f) is the basis for the Division's allegation that  
9 Nelson failed to "exercise reasonable skill and care" in reference to how it claims she  
10 handled the earnest money checks in the three (3) transactions to which it cites, the  
11 Division's complaint fails to allege the fundamental requirements for this violation to  
12 come into play – that Nelson was actually ever in possession of the earnest money  
13 checks identified in the three property transactions, or that any alleged delay in the  
14 money being remitted to the Title Company that received it was unreasonable. *See*  
15 NRS 645.630(1)(f).

16 In this case, the allegations in the Division's complaint that support its allegation  
17 that Nelson "violated" NRS 645.252(2) and/or NRS 645.630(1)(f) in three (3) of the  
18 properties identified in the complaint state that the Receipts for Deposit from First  
19 American Title Company for the earnest money checks for those properties were dated  
20 between two (2) and (3) business days after the seller accepted the buyer's offer. *See*  
21 Complaint at 3, ¶¶ 14, 15, 16 (the Quail Street property); 5-7 at ¶¶ 32, 33, 34, 35, 39,  
22 40, 41, 42 (the Tourmaline Drive property – two transactions); 8, ¶¶ 54, 55, 56, 57 (the  
23 Blossom View Drive property). *Nowhere* in its complaint or in the allegations  
24 concerning the three (3) properties at issue in Violation No. 5 does the Division allege:  
25 (1) that Nelson actually came into possession of the earnest money deposit checks  
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27 <sup>3</sup> On its own, NRS 645.252(2) is too general and broad to impose on any  
28 licensee the specific conduct addressed in NRS 645.630(1)(f).

1 identified in those allegations; or (2) what applicable time elapsed before the earnest  
2 money checks at issue were remitted to and/or received by the Title Company. The  
3 only reference in the Division's allegations to any time that elapsed was between when  
4 the offers for those properties were accepted and when the Receipts for Deposit by the  
5 Title company for those checks was dated. Notwithstanding that no "triggering" event  
6 (i.e., when Nelson came into possession of any of the earnest money checks) is alleged  
7 in support of the allegations that support Violation No. 5 in reference to whether Nelson  
8 remitted money that came into her possession in a reasonable time, the time between  
9 when the seller accepted the buyer's offer and when the Title Company dated the  
10 Receipt for Deposit of those funds is between two (2) and three (3) business days. To  
11 the extent that seller's acceptance of the buyer's offer in those transactions could be  
12 considered a "triggering" event for purposes of NRS 645.630(1)(f), there are no  
13 allegations or reference to any authority that renders either two (2) or three (3) business  
14 days an unreasonable amount of time. Thus, on its face, the complaint does not state a  
15 basis on which the Division can pursue Violation No. 5 of its complaint against Nelson.

16  
17 ***C. Because the Division's allegations in support of Violation No. 3 are***  
18 ***contrary to the facts as they relate to the transactions that the Division***  
***identified in its complaint, counsel for the Division has stipulated to***  
***dismiss Violation No. 3.***

19 As explained above, counsel for the Division has stipulated to dismiss Violation  
20 No. 3 (alleging that Nelson delayed placement of fifteen (15) properties identified in  
21 the complaint on the MLS beyond the 48 hour period specified in the Exclusive Right  
22 to Sell Agreement without obtaining waivers from her clients) because Nelson had, in  
23 fact, obtained waivers from her clients in those fifteen transactions in reference to the  
24 48 hour MLS listing requirement, and produced those waivers to the Division's  
25 counsel. Thus, because the Division's allegations are completely contrary to the actual  
26 facts related to the transactions the Division identifies in its complaint, the Division  
27 cannot pursue Violation No. 3 against Nelson.

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2 ***D. The Division fails to state any basis on which the Commission can***  
3 ***make a finding adverse to Nelson regarding its allegations in support of***  
4 ***Violation No. 4 of the complaint that Nelson, as the seller's agent,***  
***failed to disclose her marriage to Brian Nelson, who was identified by***  
***the Division as the buyer's agent in some of the transactions identified***  
***in the complaint.***

5 In Violation No. 4 of its complaint, the Division accuses Nelson of violating  
6 NRS 645.252(1)(a) and/or NAC 645.605(4)(b) on thirteen (13) occasions by failing to  
7 disclose in writing Terry's marriage to Brian, who acted as the buyer's agent.  
8 Complaint at 34, ¶ 4. In most of its allegations related to the occasions it identifies in  
9 its complaint, the Division simply alleges that Nelson failed to make written disclosure  
10 about her marriage to the buyer's agent to either the buyer or the seller. Complaint at 9,  
11 ¶ 64 (the Blossom View Drive property); 10, ¶ 76 (the Lindley property); 11, ¶ 89 (the  
12 Halifax Drive property); 14, ¶ 110 (the Rolling Clouds Drive property); 15, ¶ 125 (the  
13 L Street property); 19, ¶ 158 (the Tulepo Street property); 20, ¶ 171 (the Parque Verde  
14 Lane property); 22, ¶ 186 (the Matteoni Drive property); 24, ¶ 206 (the Tahoe  
15 Boulevard property); 26, ¶ 220 (the Trainer Way property); 28, ¶ 243 (the Plumb Lane  
16 property); 32, ¶ 278 (the Gemstone Drive property). While some of the short sale  
17 occasions identified above make reference to the "Arm's Length Transaction"  
18 requirement that is common in short sales, the Division squarely accuses Nelson of  
19 violating the "Arm's Length Transaction" affidavit in one of the occasions identified in  
20 the Complaint by failing to disclose her marriage to the buyer's agent. See Complaint  
21 at 4, ¶¶ 25 and 26 (the Tourmaline Drive property). Neither the authority on which the  
22 Division relies nor the "Arm's Length transaction" requirement for short sales,  
23 however, provides a basis on which the Commission can make a finding adverse to  
24 Nelson.

25 ***1. The authority to which the Division cites in support of Violation***  
26 ***No. 4 does not provide a basis on which the Commission can make***  
***a finding adverse to Nelson.***

27 As just stated, the Division cites to NRS 645.252(1)(a) and NAC 645.605(4)(b)  
28 as the basis for Violation No. 4 in its Complaint. Complaint at 34, ¶ 4. NRS

1 645.252(1)(a) requires a real estate licensee to disclose to each party to a real estate  
2 transaction any material and relevant facts, data or information that the licensee knows,  
3 or by the exercise of reasonable care and diligence should have known, *relating to the*  
4 *property* that is the subject of the transaction. NAC 645.605(4)(b) states that, *in*  
5 *determining whether a licensee has been guilty of gross negligence or incompetence*  
6 *under NRS 645.633(1)(h) or conduct that constitutes deceitful, fraudulent or dishonest*  
7 *dealing under NRS 645.633(1)(i)*, the Commission is to consider whether the licensee  
8 has disclosed, in writing, his or her interest or contemplated interest in any property  
9 with which the licensee is dealing, including a statement of the licensee's affiliation  
10 with or financial interest in any person or company that furnishes services related to the  
11 property. As they are cited by the Division, neither provision is a basis on which the  
12 Division can pursue Violation No. 4 against Nelson.

13 Initially, NRS 645.252(1)(a) requires disclosure of information related *to the*  
14 *property*. The person to whom Nelson, as a broker/agent in the transaction, is married  
15 is not information that relates *to the property*, and nothing else in NRS 645.252(1)(a)  
16 requires an agent's written disclosure of his or her relationship to another agent  
17 involved in the transaction. Indeed, Nelson and her husband are a husband and wife  
18 real estate team and have always conducted their business as such, and it is information  
19 that is well known to all with whom they do business, and is otherwise a matter of  
20 public record. Thus, NRS 645.252(1)(a) does not provide a basis on which the  
21 Commission can make a finding against Nelson in reference to Violation No. 4 of the  
22 Division's complaint.

23 Moreover, NAC 645.605(4)(b) does not provide an independent basis on which  
24 the Division can base Violation No. 4. On its face, NAC 645.605(4)(b) is an adjunct to  
25 and is dependent on NRS 645.633(1). Indeed, the title of NAC 645.605 is  
26 "*Considerations in determining certain misconduct by licensee.*" (emphasis added).  
27 That "certain misconduct" to which NAC 645.605 refers is that identified in NRS  
28 645.633(1), which lists a litany of *willful* misconduct that is not, and could not be, at

1 issue in reference to Violation No. 4. Nowhere in its complaint does the Division  
2 allege any of the misconduct identified by NRS 645.633(1) in relation to: (1) its  
3 allegations that Nelson did provide written disclosure of her marriage to Brian Nelson  
4 (information that is well known to all with whom they do business *and that is in the*  
5 *public domain*); (2) or its citation to NAC 645.605(4)(b). As a consequence, the  
6 Division has failed to allege any legal basis on which the Commission could make an  
7 adverse finding against Nelson in reference to Violation No. 4.

8                   2.     *The “Arm’s Length Transaction” requirement for the occasions*  
9                         *identified in the Division’s complaint has nothing to do with the*  
                              *relationship between the agents for the parties to the transaction.*

10           In accusing Nelson of violating the “Arm’s Length Transaction” affidavit in one  
11 of the occasions identified in reference to Violation No. 4, the Division quotes the  
12 language of the affidavit on which it bases that claim. *See Complaint at 4, ¶¶ 25 and 26*  
13 *(the Tourmaline Drive property), alleging that, in reference to Nelson’s failure to*  
14 *disclose her marriage to Brian Nelson, the “Arm’s Length Transaction” affidavit*  
15 *specified that the sale of the property “...is an ‘arm’s length’ transaction, between*  
16 *parties who are unrelated and unaffiliated by family, marriage, or commercial*  
17 *enterprise.” However, both by definition and by the language of what is at issue*  
18 *reference to the “Arm’s Length Transaction” Affidavit quoted by the Division, an*  
19 *“Arm’s Length Transaction” is directed at the parties to the transaction, and has*  
20 *nothing to do with any relationship between the representative agents for the parties.*  
21 *Indeed, the “Arm’s Length Transaction” affidavit quoted by the Division specifically*  
22 *identifies the “parties” to the transaction as the “Seller(s)” and “Buyer(s)” – a detail that*  
23 *is noticeably absent from the Division’s complaint. See Affidavit of “Arm’s Length*  
24 *Transaction” for the Tourmaline property from which the Division quotes, attached as*  
25 *Exhibit 3. That identification of the “parties” in that affidavit is entirely consistent with*  
26 *how an “Arm’s Length Transaction” is defined. It is:*

27   ///



1  
2 1. A transaction between two unrelated and unaffiliated *parties*.

3 2. A transaction between two *parties*, however closely related they may be,  
4 conducted as if the *parties* were strangers, so that no conflict of interest arises.

5 *U.S. Bank N.A. v. Vill. At Lakeridge, LLC (In re Vill. at Lakeridge, LLC)*, 814 F.3d 993,  
6 1001 n.11 (9th Cir., 2016), *quoting* Black's Law Dictionary (10th ed.2014). Thus,  
7 because the representative agents in the transaction are not “parties” to the transaction,  
8 the “Arm’s Length Transaction” affidavit on which the Division bases its allegations  
9 regarding Nelson’s alleged failure to provide written disclosure of her marriage to  
10 Brian Nelson is not a basis on which the Commission can make a finding adverse to  
11 Nelson in reference to Violation No. 4. Thus, on the face of the Division’s complaint,  
there is no legal or factual basis for Violation No. 4.

12 ***E. The Division’s allegations supporting Violation Nos. 6 and 7 are***  
13 ***obviated by the waivers that Nelson obtained from her clients and,***  
14 ***therefore, fail to state a basis on which the Commission can make a***  
***finding adverse to Nelson.***

15 The Division’s allegations in support of Violation No. 6 ignore that: (1) the  
16 waivers that Nelson obtained from her clients are entirely consistent with NRS  
17 645.254(4); and (2) the Division’s Waiver Form creates an impossible situation in real  
18 estate transactions that is neither intended nor prescribed by NRS 645.254(4).  
19 Moreover, the legal and factual bases on which the Division supports Violation No. 7 is  
20 completely nonsensical and otherwise obviated by the waivers that preclude the  
21 Division’s ability to pursue Violation No. 3. Thus, the Division fails to state violation  
22 on which the Commission can make any finding adverse to Nelson.

23 1. *The Division’s allegations in support of Violation No. 6 ignore*  
24 *that: (1) the waivers that Nelson obtained from her clients are*  
25 *entirely consistent with NRS 645.254(4); and (2) the Division’s*  
*Waiver Form creates an impossible situation in real estate*  
*transactions that is neither intended nor prescribed by NRS*  
*645.254(4).*

26 The Division alleges that Nelson violated NRS 645.254(4) on three (3)  
27 occasions by failing to have her clients waive the duty of the licensee to present all  
28 offers on the Division’s waiver form. Complaint at 35, ¶ 6. In each of those specific

1 instances, the division alleges that Nelson "...failed to obtain a signature from the  
2 sellers on the Division's Waiver Form allowing a licensee to not perform the statutory  
3 duty of presenting all offers made regarding the subject property." Complaint at 2, ¶ 8  
4 (Quail Street property); 4, ¶ 23 (Tourmaline Drive property); 7, ¶ 49 (Blossom View  
5 Drive property). In each of the three "occasions" identified in the Division's complaint,  
6 however, the Division acknowledges that Nelson's clients signed a hand-written waiver  
7 that stated that: (1) Nelson was not obligated to present all offers; (2) the seller waived  
8 Nelson's obligation to present all offers; and (3) Nelson may present to the seller any  
9 offer she believed to be in the client's best interests. Complaint at 2, ¶ 7 (Quail Street  
10 property); 4, ¶ 11 (Tourmaline Drive property); 7, ¶ 48 (Blossom View Drive property).  
11 Nelson included that waiver in those transactions because the Division's "waiver form"  
12 creates a scenario that is nonsensical, unreasonable, and not applicable in the real estate  
13 transactions the Division has put at issue in this case.

14 Indeed, NRS 645.254(4) requires that a licensee present all offers made to or by  
15 the client as soon as is practicable, unless the client chooses to waive that duty and  
16 signs a waiver of the duty on a form prescribed by the Division. The Division's waiver  
17 form states that the licensee who represents the client "***shall not present any offers***  
18 ***made to or by***" the client. See the Division's waiver form, Exhibit 4 (emphasis added).<sup>4</sup>  
19 In other words, the licensee is either required by statute to present all offers to the  
20 client, or, if the client waives that obligation per the Division's waiver form, the  
21 licensee is prohibited from presenting any offers at all regarding the property. It is an  
22 all or nothing proposition, *which is even contrary to the Division's own allegations*  
23 *regarding its Waiver Form*. As stated above, the Division alleges that Nelson "...failed  
24 to obtain a signature from the sellers on the Division's Waiver Form ***allowing*** a  
25 licensee to not perform the statutory duty of presenting all offers made regarding the

---

26  
27 <sup>4</sup> This waiver form was downloaded from the Division's website for the  
28 purpose of inclusion with this motion. That form is located at:  
<http://red.nv.gov/uploadedFiles/rednvgov/Content/Forms/636.pdf>

1 subject property.” Complaint at 2, ¶ 8 (Quail Street property); 4, ¶ 23 (Tourmaline  
2 Drive property); 7, ¶ 49 (Blossom View Drive property) (emphasis added). The  
3 Division’s Waiver Form, however, does not “allow” a licensee not to present all offers  
4 made regarding the subject property. On its face, it *prohibits* the licensee from  
5 presenting *any* offers regarding the subject property. Exhibit 4. On the other hand, the  
6 hand-written waiver that Nelson had her clients sign is entirely consistent with the  
7 Division’s own description of the intended effect of its waiver (“allowing” a licensee  
8 not to present all offers, as stated in its allegations quoted above) and with the statute  
9 that addresses a client’s ability to waive a licensee’s duty to present all offers made to  
10 or by the client (NRS 645.254(4)).

11 It cannot reasonably be that the Division intends that a licensee is either required  
12 to present all offers to a client as required by NRS 645.254(4) or is prohibited from  
13 presenting any offers at all to the client as stated in its Waiver Form. That scenario is  
14 simply unrealistic, and ignores what is clearly the general premise of NRS 645.254(4) –  
15 that a licensee’s client may waive the licensee’s duty to present all offers to the client.  
16 Indeed, if the latter is true – that a licensee whose client signs the Division’s Waiver  
17 Form is prohibited from presenting the client with any offers – then real estate listings  
18 subject to that waiver could not reasonably proceed beyond just being listing. To that  
19 end, Nelson’s waivers afforded more protection to her clients than the Division’s  
20 Waiver Form.

21  
22 2. *The legal and factual bases on which the Division supports*  
23 *Violation No. 7 is completely nonsensical and otherwise obviated*  
*by the waivers that preclude the Division’s ability to pursue*  
*Violation No. 3.*

24 Finally, in Violation No. 7, the Division alleges that Nelson violated NRS  
25 645.254(4) on 4 occasions by failing to have her clients waive the duty of a licensee to  
26 present all offers on the division’s waiver form, which is apparently evidenced by its  
27 allegations that Nelson did not put those listings on the MLS until an offer submitted  
28 through her brokerage was already accepted. Complaint at 35, ¶ 7. The allegations

1 supporting those four (4) occasions the Division identifies, however, contain no  
2 allegations whatsoever regarding Nelson's failure to obtain a waiver from her clients  
3 under the circumstances it claims is a violation for her failure to obtain a waiver. *See*  
4 Complaint at 17-18, ¶¶ 141-150 (the Flower Street property); 26-27, ¶¶ 228-236 (the  
5 Trainer Way property); 29-30, ¶¶ 252-260 (the Nevada Street property); 30-31, ¶¶ 261-  
6 270 (the Locomotive Way property). Indeed, it is an alleged violation that makes  
7 absolutely no sense, and is otherwise obviated by the MLS waivers Nelson received  
8 from her clients that have obligated the Division's counsel to agree to dismiss Violation  
9 No. 3. *See, supra.*

10 As stated above, NRS 645.254(4) states that a licensee who has entered into a  
11 brokerage agreement to represent a client in a real estate transaction shall "...present all  
12 offers made to or by the client as soon as is practicable, unless the client chooses to  
13 waive the duty of the licensee to present all offers and signs a waiver of the duty on a  
14 form prescribed by the Division." Nothing in the statute or in the Division's allegations  
15 in reference to Violation No. 7 aligns the requirement for a waiver of the requirement  
16 that a licensee present his/her clients with all offers on the property in the context of  
17 when a licensee lists a property on the MLS in reference to an accepted offer. Indeed,  
18 whether and when the property that is listed by a licensee is listed on the MLS has  
19 *nothing* to do with whether the licensee received any offers to present to her client and  
20 whether those offers were presented. Moreover, as explained in reference to Violation  
21 No. 3, Nelson received waivers from her clients in reference to the 48-hour MLS listing  
22 period requirement for each of the properties identified by the Division in Violation No.  
23 7 (which are included in those properties identified in Violation No. 3). As a  
24 consequence, because Nelson was not required to submit those properties to the MLS  
25 within the otherwise required 48 hour time period, the time when they were listed on  
26 the MLS has nothing to do with any offers that were submitted Nelson on those  
27 properties and whether Nelson's clients waived Nelson's duty to present all offers to  
28 them. Thus, there is no legal or factual basis on which the Division can pursue

1 Violation No. 7 against Nelson.

2 **III. CONCLUSION**

3 Based on the foregoing, Nelson requests that the Commission dismiss the  
4 Division's complaint against Nelson in its entirety.

5  
6 **AFFIRMATION**  
**Pursuant to NRS 239B.030**

7 The undersigned does hereby affirm that the preceding document does not  
8 contain the social security number of any person.

9 DATED this 20<sup>th</sup> day of July, 2019.

10 RICHARD L. ELMORE, CHTD.

11  
12 

13 Richard L. Elmore, Esq.  
14 Nevada Bar No. 1405  
15 3301 So .Virginia St., Ste. 125  
16 Reno, Nevada 89502  
17 (775) 357-8170  
18 relmore@rlepc.com

19 *Attorney for Respondent Terry Nelson*  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this date, I personally caused to be served a true copy of  
3 the foregoing **RESPONDENT TERRY NELSON'S MOTION TO DISMISS** by the  
4 method indicated and addressed to the following:

5  
6 Peter K. Keegan  
7 Deputy Attorney General  
8 100 North Carson Street  
9 Carson City, Nevada 89701  
10 Attorney for Real Estate Division

☒ Via U.S. Mail  
☐ Via Overnight Mail  
☐ Via Hand Delivery  
☐ Via Facsimile  
☐ Via ECF

11 DATED this 22<sup>nd</sup> day of July, 2019.

12  
13   
14

15 Richard L. Elmore  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1





First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121

DATE: 09/17/2013

RECEIPT NO.: 1249118305

FILE NO.: 121-2451810

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$1,800.00

WERE RECEIVED FROM: Darren D. Harmon

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

**Comments:**

Property Location: 296 East Quail Street, Sparks, NV 89431

BY: Melissa Morales, 09/17/2013

ESCROW OFFICER: Lori Silva

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

94-169/1212 1114

DARREN D HARMON  
1335 CHESTNUT ST.  
RENO, NV 89506-8076

DATE 9/12/2013

PAY TO THE ORDER OF Great Western Real Estate \$ 1,800.00

One Thousand Eight Hundred and no/100 DOLLARS

**usbank.** All of us serving you

MEMO Earnest Money 296 East Quail St.

⑆121201694⑆ 153754535819⑈1114

Accounting Copy

NRED-EXH 4 00026





**First American Title Insurance Company**  
**5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043**

PR: 32004

Ofc: 121

DATE: 08/12/2013

RECEIPT NO.: 1249117878

FILE NO.: 121-2452531

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$5,000.00

WERE RECEIVED FROM: Terese G. Huerstel

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

**Comments:**

Property Location: 14070 Tourmaline Drive, Reno, NV 89521

BY: Colleen Locker, 08/12/2013

ESCROW OFFICER: Colleen Locker

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

Ⓢ buyer deposited  
directly with  
escrow

Accounting Copy

**NRED-EXH 5 00088**

TGH  
13570 GOLD RUN DR  
RENO, NV 89521-8338

3869

94-7074/3212 1721  
0835425554

August 8, 2013  
Date

Pay to the  
Order of

Grant Western Real Estate \$5,000.00  
Five thousand and no/100's — Dollars

08/08/13 10:00 AM



Wells Fargo Bank, N.A.  
Nevada  
wellsfargo.com

Valued  
Customer  
Since 1986

For

escrow

14070 Tourmaline Dr

Jerese H. Huestis NP

⑆321270742⑆ 0835425554⑈ 03869

NRED-EXH 5 00089



**First American Title Insurance Company**  
**5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043**

PR: 32004

Ofc: 121

DATE: 11/27/2013

RECEIPT NO.: 1249119224

FILE NO.: 121-2458273

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$3,000.00

WERE RECEIVED FROM: Rodolfo R. Pichardo

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

**Comments:**

Property Location: 14070 Tourmaline Drive, Reno, NV 89521

BY: Melissa Morales, 11/27/2013

ESCROW OFFICER: Lori Silva

*Buyer  
deposited  
directly  
with escrow*

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

657

MILADY B BREA  
RODOLFO R PICHARDO  
28847 PADDINGTON CT (851) 304-1371  
MURRIETA, CA 92583-4375

Nov. 23. '13

16-55/1220  
723

Pay to the order of Great Western Real Estate \$ 3,000.00

three thousands

Bank of America

27489 Ynez Rd  
Tombala CA  
95167-2095

Customer Since 2005

Deposit 14070 Tourmaline Dr. Reno, NV

⑆ 2200066 10657 0723 70083 ⑈

Accounting Copy

NRED-EXH 5 00112



**First American Title Insurance Company**  
**5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043**

**PR: 32004**

**Ofc: 121**

**DATE: 09/06/2013**

**RECEIPT NO.: 1249118192**

**FILE NO.: 121-2453934**

## **RECEIPT FOR DEPOSIT**

**FUNDS IN THE AMOUNT OF: \$5,000.00**

**WERE RECEIVED FROM: James Healey**

**CREDITED TO THE ACCOUNT OF: Buyer**

**TYPE OF DEPOSIT: Personal Check**

**REPRESENTING: Earnest Money Deposit**

**Comments:**

**Property Location: 2080 Blossom View Drive, Sparks, NV 89434**

**BY: Lynn Stednick, 09/06/2013**

**ESCROW OFFICER: Colleen Locker**

**"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."**

**Customer Copy**

**NRED-EXH 6 00166**



**First American Title Insurance Company**  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121

DATE: 09/26/2014

RECEIPT NO.: 1249123529

FILE NO.: 121-2471403

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$100.00

WERE RECEIVED FROM: Tara Lee Waldron

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 112 Michaelson Drive, Fernley, NV 89408

BY: Brandie Martin, 09/26/2014

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

<b>REESE R WALDRON</b> <b>TARA WALDRON</b> 11720 MINUTEMAN DR. RIVERSIDE, CA 92503		2019 90-7051/3222 14
Pay to the Order of <u>First American Title Company</u> \$ <u>100.00</u>		Date <u>9.21.14</u>
<u>One hundred &amp; 00/100</u> Dollars		
<b>PROVIDENT Bank</b> 3312 Lo Sisto Ave., Ste. 105, Riverside, CA 92503 • (951) 442-5201		
For <u>2471403-Pm</u>	<u>Tara L. Waldron</u>	
⑆322270518⑆		5052626⑈2014

Accounting Copy

NRED-EXH 9 00341





First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 04/25/2016

RECEIPT NO.: 1249130375

FILE NO.: 121-2502675

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Jeffrey E. Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

### Comments:

Property Location: 6940 Flower Street, Reno, NV 89506

⊗ buyer  
deposited  
directly  
with escrow

BY: Barbara Hunsaker, 04/25/2016

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

GROWING VINES OF OREGON TRUST  
670 VALLEY RD  
RENO, NV 89512

3002  
84-181/1212

DATE 4-22-16

PAY TO THE ORDER OF FIRST AMERICAN TITLE CO. \$ 500.00

FIVE HUNDRED DOLLARS

Heritage Bank KEYSTONE BRANCH  
1000 W. 7TH STREET  
RENO, NV 89503-2709

EST. DEPT Nevada

For 6940 FLOWER ST.

⑆121201814⑆3002⑆4000016982⑆

Heritage Bank

Accounting Copy

NRED-EXH 13 00556



# RECEIPT FOR DEPOSIT

④ Buyer deposited directly with escrow

**NRED-EXH 15 00670**



First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 04/07/2017

RECEIPT NO.: 1249133380

FILE NO.: 121-2518461

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Michael S. Zaccone

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 2261 Matteoni Drive, Sparks, NV 89434

BY: Barbara Hunsaker, 04/07/2017

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

Michael S Zaccone  
Jacqueline E Sandoval  
6340 Pima Ct  
Sun Valley, NV 89433-6635

1165  
94-707413212 1775  
9197377592

April 8, 2017

Pays to the Order of First American Title \$ 500.00

Five Hundred Dollars / 00/100

WELLS FARGO Wells Fargo Bank, N.A. Nevada wells Fargo.com

For Earnest Money

Michael S Zaccone

1:321270742: 9197377592 01165

Accounting Copy

NRED-EXH 17 00780

First American Title Insurance Company  
5310 Kierulff Lane, Suite 100 Reno, NV 89511-2043



PR: 32004      Ofc: 121 (1249)      DATE: 03/06/2017

RECEIPT NO.: 1249133175  
FILE NO.: 121-2515712

### RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$100.00

WERE RECEIVED FROM: Jeffrey E. Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments: "

Property Location: 1920 Trainer Way, Reno, NV 89512

BY: Barbara Hunsaker, 03/06/2017

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced, is subject to clearance by the depository financial institution and credit to our account."

JEFFREY E VEASLEY  
FLIP SAVINGS  
3287 HOLMAN WAY  
SPARKS, NV 89431

First American Title  
\$ 100.00  
One hundred and 00/100

BANK OF THE WEST  
(800) 488-2285  
WWW.BANKOFTHEWEST.COM

1920 Trainer Way  
CI: 121 1007821 0367496634 00370

Accounting Copy



**First American Title Insurance Company**  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE:

07/11/2017

RECEIPT NO.: 1249133918

FILE NO.: 121-2524122

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$2,000.00

WERE RECEIVED FROM: Dana Morrison

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

**Comments:**

Property Location: 935 Nevada Street, Reno, NV 89503

BY: Barbara Hunsaker, 07/11/2017

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

Dana Morrison  
Michelle Morrison  
188 N Big Sage Ln  
Reno, NV 89511

2062

84-72/1224

Pay to the  
Order of

FIRST AMERICAN TITLE

\$ 2000

TWO THOUSAND <sup>00</sup>/<sub>100</sub>

Dollars

Bank of America  
ACH R/T 122400724

For

EMD 935 NEVADA ST

⑆122400724⑆ 00501131927⑆ 2062

© J.D. Coates, LLC. Courtesy of MTS Licensing

Customer Copy

NRED-EXH 22 01065



**First American Title Insurance Company**  
**5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043**

PR: 32004

Ofc: 121 (1249)

DATE: 07/27/2017

RECEIPT NO.: 1249134018

FILE NO.: 121-2523944

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Jeffrey Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Cashier's Check

REPRESENTING: Earnest Money Deposit

**Comments:**

Property Location: 945 Locomotive Way, Sparks, NV 89434

BY: Brandie Martin, 07/27/2017

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

**Bank of America**

Cashier's Check

No. 0897713059

Notice to Purchaser - In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

91-170/1221

Date 07/26/17 09:55:09 AM

NAZ

SOUTH RENO BRANCH

0003 0008674 0030

Pay



**BANK OF AMERICA** **500.00**  
FIVE ZERO ZERO DOLLARS

**\*\*\$500.00\*\***

**\*\*Five Hundred and 00/100 Dollars\*\***

To The **FIRST AMERICAN TITLE**  
Order Of

Remitter (Purchased By): JEFFREY VEASLEY

Bank of America, N.A.  
PHOENIX, AZ

2523944-Bm

AUTHORIZED SIGNATURE

⑈0897713059⑈ ⑆122101706⑆ 457002931720⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

NRED-EXH 23 01115



First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 07/10/2015

RECEIPT NO.: 1249126993

FILE NO.: 121-2486883

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Jeffery Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 7615 Rolling Clouds Drive, Reno, NV 89506

BY: Melissa Gyll, 07/10/2015

ESCROW OFFICER: Brandie Martin



Buyer  
deposited  
directly with  
escrow.

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

JEFFREY VEASLEY 3287 HOLMAN WAY SPARKS, NV 89431		BANK OF AMERICA ACH 001 123456789	1058
PAY TO THE ORDER OF	First American T: Hc	Date	94-72-1224
		\$ 500.00	DOLLARS
Five Hundred 00/100			
Rolling Clouds End			
122400724: 5010066643508 1058			

Customer Copy

NRED-EXH 10 00398





First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 10/23/2015

RECEIPT NO.: 1249128265

FILE NO.: 121-2493627

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Jeffery Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 439 L Street, Sparks, NV 89431

BY: Melissa Gyll, 10/23/2015

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

JEFFREY E VEASLEY  
FLIP SAVINGS  
3287 HOLMAN WAY  
SPARKS, NV 89431-1156

147  
90-78/1211

10/23/2015

DATE

PAY TO THE  
ORDER OF

First American Title

\$ 500.00

Five hundred and 00/100

DOLLARS



Security  
Features  
Checklist on  
Back



BANK OF AMERICA

Reno Office  
5310 KIETZKE LN.  
RENO, NV 89511  
1-800-424-2143

FOR 439 L. St

*Jeffery E Veasley*

⑆ 121100782⑆

036749663⑆ 0047

NRED-EXH 11 00448



**First American Title Insurance Company**  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 03/03/2016

RECEIPT NO.: 1249129723

FILE NO.: 121-2499390

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$500.00

WERE RECEIVED FROM: Jeffery Veasley

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Company Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 11560 Tupelo Street, Reno, NV 89506

BY: Brandie Martin, 03/03/2016

ESCROW OFFICER: Brandie Martin



buyer  
deposited  
directly with  
escrow

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER & HAS A MICROPRINTED BORDER



**First American Title Insurance Company**  
5310 Kietzke Lane, Suite 100  
Reno, NV 89511-2043  
(775)823-6200

PR: 32004  
Ofc: 121 (1249)

First American Trust, FSB -

1249485221

80-41251222

Date 03/03/2016

FILE NO. 121-2493627

PAY

\*\*\*\*\*\$500.00\*\*\*\*\*

DOLLARS

\*\*\*\*\*500.00

Re:

TO THE  
ORDER  
OF

First American Title Co. FBO Jeffery Veasley

Escrow Trust Bank Account  
VOID AFTER 180 DAYS

*MMTread*

-2499390-BM

THE FACE OF THIS DOCUMENT INCLUDES A HIDDEN WORD - DO NOT CASH IF THE WORD VOID IS VISIBLE  
1249485221 122241255 3012490000

NRED-EXH 14 00617



First American Title Insurance Company  
5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043

PR: 32004

Ofc: 121 (1249)

DATE: 02/03/2017

RECEIPT NO.: 1249133025

FILE NO.: 121-2515104

## RECEIPT FOR DEPOSIT

FUNDS IN THE AMOUNT OF: \$1,000.00

WERE RECEIVED FROM: Adrian Lall

CREDITED TO THE ACCOUNT OF: Buyer

TYPE OF DEPOSIT: Personal Check

REPRESENTING: Earnest Money Deposit

Comments:

Property Location: 751 Tahoe Boulevard Unit 5, Incline Village, NV 89451

⊗ buyer deposited  
directly with  
escrow

BY: Nicole Gubbels, 02/03/2017

ESCROW OFFICER: Brandie Martin

"The validity of this receipt, for the deposit referenced,  
is subject to clearance by the depository financial institution and credit to our account."

VICTORIA BOURNE  
ADRIAN LALL  
2159 AUTINORI CT  
LIVERMORE, CA 94550-2522

396

11-4283/1210 4037  
0871318830

Pay to the  
Order of

FIRST AMERICAN TITLE

2/2/2017 Date

\$ 1,000

ONE THOUSAND DOLLARS

Dollars



Wells Fargo Bank, N.A.  
California  
wellsfargo.com

For 751, TAHOE BLVD #5 INCLINE 89451

*Adrian*

⑆21042882⑆ 0871318830⑈ 00396

Accounting Copy

NRED-EXH 18 00838

**First American Title Insurance Company**  
**5310 Kietzke Lane, Suite 100 Reno, NV 89511-2043**

PR: 32004

**Ofc: 121 (1249)**

**DATE:** 05/31/2017

RECEIPT NO.: 1249133678

**FILE NO.: 121-2521347**

# RECEIPT FOR DEPOSIT

**FUNDS IN THE AMOUNT OF: \$1,000.00**

**WERE RECEIVED FROM: Jeffrey E. Veasley**

**CREDITED TO THE ACCOUNT OF: Buyer**

**TYPE OF DEPOSIT:** Personal Check

**REPRESENTING:** Earnest Money Deposit

**Comments:****Property Location: 3525 West Plumb Lane, Reno, NV 89509**

**BY: Brandie Martin, 05/31/2017**

**ESCROW OFFICER:** Brandie Martin

**"The validity of this receipt, for the deposit referenced, is subject to clearance by the depository financial institution and credit to our account."**

139 Check 1-800-478-4227 www.WellsFargo.com  
 04-70743212  
 540  
 JEFFREY E VEASLEY  
 DEBTOR IN POSSESSION  
 3287 HOLMAN WAY  
 SPARKS, NV 89431  
 Date 5-30-2017  
 Pay to the Order of First American \$1,000  
One Thousand Dollars  
 WELLS FARGO BANK, N.A. 2521347-8M  
 NEVADA  
 WELLSFARGO.COM  
 For Plomb Carl  
 In all cases acknowledge him, and  
 the bank correct the parties.  
 032227074218609489815 00540

**Accounting Copy**

**NRED-EXH 21 01008**

# EXHIBIT 2

File No: 121-2499954

First American Title Insurance Company

Printed: 04/28/2016, 10:37 AM

Officer/Escrow Officer: Brandie

5310 Kietzke Lane, Suite 100 • Reno, NV 89511-2043

Martin/BM

Phone: (775)823-6200 Fax: (775)823-6250

Settlement Location:

Final Settlement Statement

5310 Kietzke Lane, Suite 100, Reno, NV

89511-2043



Property Address: 687 West Canary Circle, Fernley, NV 89408

Buyer: Charles Edward Tolliver

Seller: Jimmy G. Williams, Nanae Williams

Lender: To Be Determined

Settlement Date: 04/26/2016

Disbursement Date: 04/26/2016

Seller		Description	Buyer	
Debit	Credit		Debit	Credit
		<b>Financial</b>		
	209,500.00	Sale Price	209,500.00	
		Deposit: Receipt No. 1249130383 on 04/26/2016 by Charles Edward Tolliver		209,970.26
		<b>Prorations/Adjustments</b>		
	364.26	County Taxes 04/22/16 to 07/01/16 @\$1,899.35/yr	364.26	
		<b>Title Charges &amp; Escrow / Settlement Charges</b>		
825.00		Title - Escrow Fee - General Escrow Fee - General to First American Title Insurance Company		
		Title - Document Services Document Services to First American Title Insurance Company	80.00	
1,145.10		Title - Owner's Title Insurance (optional) Eagle Policy-O to First American Title Insurance Company		
		<b>Commission</b>		
12,570.00		Real Estate Commission to Great Western Real Estate, Terry Nelson		
		<b>Government Recording and Transfer Charges</b>		
		Grant Deed to Lyon County Recorder	15.00	
		e-Recording Fee - B	5.00	
817.05		Real Property Transfer Tax-County to Lyon County Recorder		
		<b>Payoff(s)</b>		
		Lender: Navy Federal Credit Union		
169,587.67		Principal Balance to Navy Federal Credit Union		
		Interest on Payoff Loan @\$15.100000/day to Navy Federal Credit Union		
14.00		Recording Fee to Navy Federal Credit Union		

This is a summary of the closing transaction prepared by First American Title Insurance Company. This document is not intended to replace the Closing Disclosure form.

Seller		Description	Buyer	
Debit	Credit		Debit	Credit
422.81		Int per demand to 4/30/2016 @ \$15.10/day to Navy Federal Credit Union		
		<b>Subtotals</b>		
		Due To Buyer	6.00	
24,482.63		Due To Seller		
209,864.26	209,864.26	<b>Totals</b>	209,970.26	209,970.26

Escrow Officer: Brandie Martin

This is a summary of the closing transaction prepared by First American Title Insurance Company. This document is not intended to replace the Closing Disclosure form.

File No: 121-2524815

First American Title Insurance Company

Printed: 10/11/2017, 2:46 PM

Officer/Escrow Officer: Brandie  
Martin/BM

5310 Kietzke Lane, Suite 100 • Reno, NV 89511-2043

Phone: (775)823-6200 Fax: (775)823-6250

Settlement Location:

Final Settlement Statement

5310 Kietzke Lane, Suite 100, Reno, NV  
89511-2043

Property Address: 7280 Gemstone Drive, Reno, NV 89511

Buyer: Alexander V Hose

Seller: Terry Ann Stone

Lender:

Settlement Date: 10/10/2017

Disbursement Date: 10/10/2017

Seller		Description	Buyer	
Debit	Credit		Debit	Credit
		<b>Financial</b>		
	225,000.00	Sale Price	225,000.00	
		Deposit: Receipt No. 1249134568 on 10/06/2017 by Alexander V Hose		231,742.15
		<b>Prorations/Adjustments</b>		
	241.90	County Taxes 10/10/17 to 12/31/17 @\$1,087.10/yr	241.90	
	136.49	Utilities 10/10/17 to 12/31/17 @\$45.50/mo	136.49	
	5,197.00	Cash contribution from buyer for second lien	5,197.00	
		<b>Title Charges &amp; Escrow / Settlement Charges</b>		
1,209.00		Eagle Policy-O to First American Title Insurance Company		
700.00		Escrow Fee - General to First American Title Insurance Company	525.00	
		Binder to First American Title Insurance Company	108.51	
		<b>Commission</b>		
6,750.00		Real Estate Commission to Great Western Real Estate, Terry Nelson		
6,750.00		Real Estate Commission to Great Western Real Estate, Brian Nelson		
		<b>Government Recording and Transfer Charges</b>		
		Deed of Trust--First to Washoe County Recorder	38.00	
		e-Recording Fee - B	5.00	
461.25		Real Property Transfer Tax-County to Washoe County Recorder	461.25	
		<b>Payoff(s) and Payment(s)</b>		
		Caliber Home Loans, Inc. ISAOA		
202,022.51		Principal Balance to Caliber Home Loans, Inc. ISAOA		
		Republic Equity Credit Services, Inc.		
12,000.00		Principal Balance to Republic Equity Credit Services, Inc.		



Seller		Description	Buyer	
Debit	Credit		Debit	Credit
		<b>Miscellaneous</b>		
		Notice of Exemption to Air Quality Management Division	29.00	
35.57		Trash to Waste Management of Nevada Reno Disposal		
647.06		Sewer to 12/31/2017 to City of Reno - Sewer Dept.		
230,575.39	230,575.39	<b>Subtotals</b>	231,742.15	231,742.15
		Due From/To Buyer		
		Due From/To Seller		
230,575.39	230,575.39	<b>Totals</b>	231,742.15	231,742.15

Escrow Officer: Brandie Martin

# EXHIBIT 3

## **AFFIDAVIT OF "ARM'S LENGTH TRANSACTION"**

Pursuant to a residential purchase agreement ("Agreement"), the parties identified below as "Seller(s)" and "Buyer(s)," respectively, are involved in a real estate transaction whereby the Mortgage Servicer Account Number identified as (Loan Number) the real property commonly known as (Property Address) ("Property") will be sold by Seller(s) to Buyer(s). The Investor ("Lender") holds a deed of trust or mortgage against the Property. In order to complete the sale of the Property, Seller(s) and Buyer(s) have jointly asked Lender to discount the total amount owed on the loan which is secured by the deed of trust or mortgage. Lender, in consideration for the representations made below by Seller(s), Buyer(s), and their respective agents, agrees to a short sale on the express condition that Seller(s), Buyers, and their respective agents (including, without limitation, real estate agents, escrow agents, and title agents) each truthfully represents, affirms, and states as follows:

- (a) The sale of the Mortgaged Premises is an "arm's length" transaction, between parties who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
- (b) There are no agreements, understandings or contracts between the parties that the Borrower will remain in the Mortgaged Premises as a tenant or later obtain title or ownership of the Mortgaged Premises, except to the extent that the Borrower is permitted to remain as a tenant on the Mortgaged Premises for a short term, as is common and customary in the market but no longer than ninety (90) days, in order to facilitate relocation;
- (c) Neither the Borrower(s) nor the purchaser(s) will receive any funds or commissions from the sale of the Mortgaged Premises. The Borrower may receive a payment if it is offered by PHH Mortgage, approved by the Investor and reflected on the HUD-1 Settlement Statement.
- (d) There are no agreements, understandings or contracts relating to the current sale or subsequent sale of the Mortgaged Premises that have not been disclosed to the Servicer.
- (e) All amounts to be paid to any party, including holders of other liens on the Mortgaged Premises, in connection with the short payoff transaction have been disclosed to and approved by the Servicer and will be reflected on the HUD-1 Settlement Statement
- (f) Each signatory understands, agrees and intends that the Servicer and Investor are relying upon the statements made in the affidavit as consideration for the reduction of the payoff amount of the Mortgage and agreement to the sale of the Mortgaged Premises;
- (g) A signatory who makes a negligent or intentional misrepresentation agrees to indemnify the Servicer and Investor for any and all loss resulting from the misrepresentation including, but not limited to, repayment of the amount of the reduced payoff of the Mortgage;
- (h) The certification will survive the closing of the transaction; and

- (i) Each signatory understands that a misrepresentation may subject the party making the misrepresentation to civil and/or criminal liability

I declare under penalty of perjury under the laws of the State of \_\_\_\_\_ that all statements made in this Affidavit are true and correct.

**Additionally, I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly and willfully make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.**

Seller: \_\_\_\_\_  
Date

Seller: \_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Buyer: \_\_\_\_\_  
Date

Buyer: \_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Listing  
Broker: \_\_\_\_\_  
Date

Purchaser's  
Broker: \_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Transaction  
Facilitator: \_\_\_\_\_  
Date

Transaction  
Facilitator: \_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Escrow/  
Closing Agent \_\_\_\_\_  
Date

Transaction  
Facilitator: \_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.

Signature \_\_\_\_\_

(seal)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.

Signature \_\_\_\_\_

(seal)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.

(seal)

Signature \_\_\_\_\_

**NRED-EXH 5 00069**

# EXHIBIT 4

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION**

3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102 \* (702) 486-4033  
e-mail: [realest@red.nv.gov](mailto:realest@red.nv.gov) \* <http://red.nv.gov/>

**WAIVER FORM**

In representing any client in an agency relationship, a real estate licensee has specific statutory duties to that client. Under Nevada law only one of these duties can be waived. NRS 645.254 requires a licensee to "present all offers made to or by the client as soon as practicable." This duty may be waived by the client.

"Presenting all offers" includes without limitation: accepting delivery of and conveying offers and counteroffers; answering a client's questions regarding offers and counteroffers; and assisting a client in preparing, communicating and negotiating offers and counteroffers.

In order to waive the duty, the client must enter into a written agreement waiving the licensee's obligation to perform the duty to present all offers. **By signing below you are agreeing that the licensee who is representing you will not perform the duty of presenting all offers made to or by you with regard to the property located at:**

\_\_\_\_\_

Property Address

\_\_\_\_\_

City

**AGREEMENT TO WAIVER**

By signing below I agree that the licensee who represents me shall not present any offers made to or by me, as defined above. I understand that a real estate transaction has significant legal and financial consequences. I further understand that in any proposed transaction, the other licensee(s) involved represents the interests of the other party, does not represent me and cannot perform the waived duty on my behalf. I further understand that I should seek the assistance of other professionals such as an attorney. I further understand that it is my responsibility to inform myself of the steps necessary to fulfill the terms of any purchase agreement that I may execute. I further understand that this waiver may be revoked in writing by mutual agreement between client and broker.

**WAIVER NOT VALID UNTIL SIGNED BY BROKER.**

\_\_\_\_\_

Client

\_\_\_\_\_

Date

\_\_\_\_\_

Licensee

\_\_\_\_\_

Date

\_\_\_\_\_

Client

\_\_\_\_\_

Date

\_\_\_\_\_

Broker

\_\_\_\_\_

Date



OFFICE OF THE ATTORNEY GENERAL  
CARSON CITY, NEVADA

JUL 23 2019

BUREAU OF PUBLIC AFFAIRS  
BUSINESS & TAXATION DIVISION