

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2018-182

FILED

MAY 09 2019

REAL ESTATE COMMISSION
BY *Julie Faller*

Petitioner,

vs.

ROSLYNN PHOENIX-MYRICK,

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, Aaron D. Ford, Attorney General of the State of Nevada, and Dennis L. Belcourt, Deputy Attorney General, hereby notifies RESPONDENT ROSLYNN PHOENIX-MYRICK, ("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, NRS 645.630 and NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

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

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1 **FACTUAL ALLEGATIONS**

2 *General Allegation*

3 1. At all times relevant to this Complaint, RESPONDENT was licensed by the Division as a
4 broker, Nevada license number B.1000600.CORP (expired), and B.1001579.INDV, and holds a property
5 management permit, PM.0164860.BKR.

6 *Guilty Plea and Conviction*

7 2. On or about November 10, 2016, RESPONDENT was charged with “willfully and
8 unlawfully (conspiring) to obtain property or services of another person by a material misrepresentation
9 with intent to deprive that person of the property or services...”

10 3. On or about March 16, 2017, RESPONDENT entered a plea of no contest to conspiracy
11 to commit theft, a gross misdemeanor.

12 4. A judgment of conviction based on the plea of no contest was entered against
13 RESPONDENT on June 13, 2016, requiring, among other things, that RESPONDENT make restitution
14 to the victims in the amount of \$9,282.13.

15 5. RESPONDENT did not report either the plea of guilty or the judgment of conviction either
16 within ten days of her plea or at the time of her subsequent renewal.

17 *Deceitful Conduct*

18 6. In 2013, RESPONDENT advised a client trying to qualify for a short sale to transfer
19 \$120,000 belonging to the client to an account under the name of a Nevada limited liability company
20 called Community Hearts, LLC.

21 7. The client and RESPONDENT agreed that the money would be returned to the client at a
22 later date.

23 8. RESPONDENT’S son was a signatory on the Community Hearts, LLC account, and
24 through him or by other means RESPONDENT caused money from the \$120,000 transfer to be paid her
25 or at her direction and for her benefit, without permission of the client.

26 *Other*

27 9. RESPONDENT failed to produce records of the short sale she brokered for the client
28 because she lost them when her cloud provider changed accounts.

1 **VIOLATION**

2 10. RESPONDENT's entry of a plea of no contest to conspiracy to commit theft is a violation
3 of NRS 645.633(1)(d)(2).

4 11. RESPONDENT violated NRS 645.615(1)(b) by failing to report the plea of no contest to
5 said crime within the time provide for in NRS 645.615(2)(a).

6 12. RESPONDENT violated NRS 645.3205 and 645.633(1)(i), in consideration of NAC
7 645.605(1) and (6), in her advice and conduct with respect to her client's money.

8 13. RESPONDENT violated NAC 645.650(1) in failing to keep records of the transaction she
9 acted as a broker on for her client.

10 14. RESPONDENT violated NRS 645.635(6) by failing to produce the records of the
11 transaction she acted as a broker on for her client.

12 **DISCIPLINE AUTHORIZED**

13 1. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an
14 administrative fine in an amount not to exceed \$10,000 for each violation and to revoke, suspend, or take
15 other action regarding the license of RESPONDENT.

16 2. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of
17 the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the
18 Commission otherwise imposes discipline on RESPONDENT.

19 3. Therefore, the Division requests that the Commission take such disciplinary action as it
20 deems appropriate under the circumstances.

21 **NOTICE OF HEARING**

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

25 **THE HEARING WILL TAKE PLACE** on June 11, 2019, commencing at 9:00 a.m., or as
26 soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing
27 at 9:00 a.m. through June 13, 2019, or earlier if the business of the Commission is concluded. The
28 Commission meeting will be held on June 11, 2019 and June 12, 2019 at the Nevada State Business

1 Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. Should
2 the meeting not be concluded, the meeting will continue on June 13, 2019, commencing at 9:00 a.m.
3 at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Tahoe Room, Las
4 Vegas, Nevada 89102.

5 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same
6 time as part of a regular meeting of the Commission that is expected to last from June 11, 2019
7 through June 13, 2019, or earlier if the business of the Commission is concluded. Thus, your
8 hearing may be continued until later in the day or from day to day. It is your responsibility to be
9 present when your case is called. If you are not present when your hearing is called, a default may
10 be entered against you and the Commission may decide the case as if all allegations in the complaint
11 were true. If you have any questions please call Evelyn Pattee, Commission Coordinator (702) 486-
12 4074.

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

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

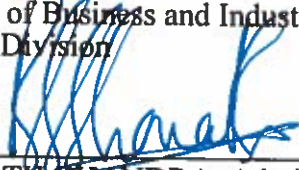
24 You have the right to request that the Commission issue subpoenas to compel witnesses to testify
25 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate
26 the relevance of the witness’ testimony and/or evidence. Other important rights you have are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

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

5 DATED this 9 day of May, 2019.

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

9 By: 
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