

1                               BEFORE THE REAL ESTATE COMMISSION  
2                               STATE OF NEVADA

3 SHARATH CHANDRA, Administrator,  
4 REAL ESTATE DIVISION, DEPARTMENT  
5 OF BUSINESS & INDUSTRY,  
6 STATE OF NEVADA,

7                               Petitioner,

8                               vs.

9 TYSON R. DELACRUZ,

10                              Respondent.

Case No. 2016-115

**FILED**

FEB 15 2019

REAL ESTATE COMMISSION  
*Emily Patten*

11                              **COMPLAINT AND NOTICE OF HEARING**

12           The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY  
13 OF THE STATE OF NEVADA ("Division") hereby notifies TYSON R. DELACRUZ  
14 ("RESPONDENT"), of an administrative hearing before the STATE OF NEVADA REAL ESTATE  
15 COMMISSION ("Commission"). The hearing will be held pursuant to Chapters 233B and Chapter 645  
16 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC").  
17 The purpose of the hearing is to consider the allegations stated below and to determine if the  
18 RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633, NRS 645.630  
19 and NRS 622.400, and the discipline to be imposed, if violations of law are proven.

20                              **JURISDICTION**

21           RESPONDENT was at all times relevant mentioned in this Complaint licensed by the Division  
22 as a Salesperson under license number S.0176538, and is therefore subject to the jurisdiction of the  
23 Division and the Commission, and the provisions of NRS Chapter 645 and NAC Chapter 645.

24                              **FACTUAL ALLEGATIONS**

- 25           1.       RESPONDENT has been licensed by the Division as a Salesperson since March 17, 2015.
- 26           2.       RESPONDENT is currently licensed by the Division as a Salesperson under license  
27 number S.0176538 and is in active status.
- 28           3.       On or about November 10, 2015, Mr. Jason R. Oesterling ("Oesterling") executed a  
Standard Purchase and Sale Agreement ("Oesterling Agreement") for 4825 Spanish Wells Drive, North

1 Las Vegas, Nevada 89129 ("the Property"), which listed RESPONDENT along with Craig Sevy ("Sevy")  
2 as buyers.

3 4. RESPONDENT knew Oesterling was facing a foreclosure sale at the time they entered  
4 into the Oesterling Agreement.

5 5. Having failed to exercise reasonable skill and care to ascertain that there was a tenant on  
6 the Property, RESPONDENT caused the locks to be changed, caused to be removed from the Property  
7 the tenant's personal property or took other actions detrimental to the tenant.

8 6. RESPONDENT was not listed as an agent for the transaction on the Oesterling  
9 Agreement, but he had Oesterling execute a "Duties Owed" on November 20, 2015, which identified  
10 RESPONDENT as his agent and his broker as Rachel Pellican ("Pellican") of Rock Realty Group, LLC,  
11 ("Rock Realty").

12 7. As a condition of Oesterling Agreement, RESPONDENT and Sevy agreed to pay  
13 Oesterling \$3,000 cash "at the time of the transfer deed" for the Property.

14 8. On or about November 24, 2015, Oesterling executed a Grant, Bargain, and Sale Deed,  
15 transferring the Property to RESPONDENT and Sevy, which deed was recorded on December 30, 2015.

16 9. RESPONDENT failed to notify his broker, Pellican, of the transaction regarding  
17 Oesterling Agreement.

18 10. Additionally, RESPONDENT failed to provide documents to his broker regarding  
19 Agreement 1 until on or about December 22, 2015, after a third party contacted his broker's office to  
20 complain of his actions as they related to the Property.

21 11. RESPONDENT did not have his broker's permission to conduct the transaction regarding  
22 the Property, and was therefore terminated from Rock Realty, effective December 21, 2015.

23 12. Prior to his termination, on or about December 14, 2015, RESPONDENT issued a  
24 Residential Purchase Agreement ("Hauser Agreement") to a new potential buyer, Deann Hauser  
25 ("Hauser") for the Property.

26 13. The Earnest Money Receipt for the Hauser Agreement listed the following:

27 a. Oesterling as the Seller;

28 b. RESPONDENT as the Seller's Agent and Pellican as the Seller's Broker; and,

1 c. RESPONDENT as the Buyer's Agent and Pellican as the Buyer's Broker.

2 14. RESPONDENT failed to notify Hauser that he held an interest in the Property.

3 15. On or about March 16, 2016, different buyers, James and Lynn Blackard ("Blackards")  
4 executed a Residential Purchase Agreement ("Blackards Agreement") for the Property.

5 16. Thereafter, RESPONDENT and Sevy signed the Blackards Agreement on or about March  
6 17, 2016.

7 17. However, RESPONDENT failed to inform the Blackards that he held an interest in the  
8 Property.

9 18. RESPONDENT and Sevy received \$79,947 for the Property, in addition to commission  
10 of \$2,445.

11 19. The first mortgage holder for the Property, Bank of America, was not notified of the  
12 transfer from Oesterling to RESPONDENT and Sevy.

### 13 VIOLATIONS

14 RESPONDENT committed the following violations of law:

15 20. RESPONDENT violated NRS 645.252(2) when he failed to exercise reasonable skill or  
16 care to determine whether there was a tenant on the property before changing the locks on the Property  
17 to be changed, removing the tenant's personal property, or otherwise taking action detrimental to the  
18 tenant.

19 21. RESPONDENT violated NRS 645.633(1)(i) by having Oesterling transfer the Property  
20 without notifying the first mortgage holder that the ownership to the Property had changed.

21 22. RESPONDENT violated NAC 645.650(2) by failing to submit completed documents  
22 regarding the Property, including the Oesterling Agreement, to his broker within five days of the  
23 completed transaction.

24 23. RESPONDENT violated NAC 645.637 or NAC 645.640 by failing to notify Hauser that  
25 he held an interest in the Property in the Hauser Agreement.

26 24. RESPONDENT violated NAC 645.637 or NAC 645.640 by failing to notify the Blackards  
27 that he held an interest in the Property in the Blackards Agreement dated March 16, 2016.

28 ...

25. RESPONDENT violated NRS 645.633(1)(i) by failing to disclose in the Hauser Agreement that he was under contract to purchase the Property and that he had a signed deed from Oesterling transferring the Property to RESPONDENT.

26. RESPONDENT violated NRS 645.633(1)(i) by taking advantage of Oesterling's disadvantaged circumstance, in only agreeing to pay Oesterling \$3,000 while receiving payment for the sale of the Property to the Blackards in the amount of \$79,947, less Sevy's share, as well as commission in the amount of \$2,445.

**DISCIPLINE AUTHORIZED**

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

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

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

## NOTICE OF HEARING

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

**THE HEARING WILL TAKE PLACE on March 26, 2019, commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through March 28, 2019, or earlier if the business of the Commission is concluded. The Commission meeting will be held on March 26, 2019, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue on March 27, 2019 at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on March 28, 2019, should business not be concluded, starting at 9:00 a.m. at the Nevada Department of Employment,**

1 Training and Rehabilitation, 2800 W. St. Louis Avenue, Conference Room, Las Vegas, Nevada  
2 89104.

3 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same  
4 time as part of a regular meeting of the Commission that is expected to last from March 26, 2019  
5 through March 28, 2019, or earlier if the business of the Commission is concluded. Thus, your  
6 hearing may be continued until later in the day or from day to day. It is your responsibility to be  
7 present when your case is called. If you are not present when your hearing is called, a default may  
8 be entered against you and the Commission may decide the case as if all allegations in the complaint  
9 were true. If you have any questions please call Evelyn Pattee, Commission Coordinator, (702)  
10 486-4074.

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

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

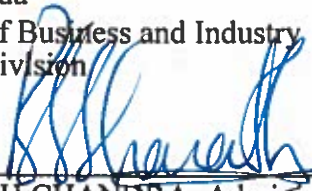
22 You have the right to request that the Commission issue subpoenas to compel witnesses to testify  
23 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate  
24 the relevance of the witness' testimony and/or evidence. Other important rights you have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

26 The purpose of the hearing is to determine if the Respondent has violated NRS 645 or NAC 645  
27 and if the allegations contained herein are substantially proven by the evidence presented and to  
28 ...


1 further determine what administrative penalty is to be assessed against the RESPONDENT, if any,  
2 pursuant to NRS 645.633 or 645.630.

3 DATED this 14 day of February, 2019.

4 State of Nevada  
5 Department of Business and Industry  
6 Real Estate Division

7 By:   
8 SHARATH CHANDRA, Administrator  
9 3300 West Sahara Avenue, Suite 350  
10 Las Vegas, Nevada 89102

11 AARON D. FORD  
12 Attorney General

13 By:   
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