

BEFORE THE REAL ESTATE COMMISSION

FILED

STATE OF NEVADA

JUL 19 2019

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

REAL ESTATE COMMISSION
Quelly Patten

Case No. 2018-972

Petitioner,

COMPLAINT AND NOTICE OF
HEARING

vs.

PABLO RODRIGUEZ,

Respondent.

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 Peter Keegan, Deputy Attorney General, hereby notifies RESPONDENT PABLO RODRIGUEZ ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held pursuant to Chapter 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 or other discipline authorized by NRS 645 and/or NAC 645, if violations of law are proven.

JURISDICTION

RESPONDENT is licensed as a salesperson under license number S.0175422. 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 and NAC 645.

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PROCEDURAL HISTORY

1. RESPONDENT affiliated with Marcus & Millichap ("M&M") as a real estate salesperson from September 3, 2014 to March 20, 2018.

2. On or about July 20, 2018, the Division sent an investigation opening letter to RESPONDENT at his Brokerage, Loro Realty Group, which required RESPONDENT to provide a sworn statement concerning his involvement with the real estate transactions involving 7040 South Durango Drive and 7050 South Durango Drive, Las Vegas, NV 89113, while he was affiliated with M&M.

3. On or about August 7, 2018, the Division received RESPONDENT's response, submitted through his counsel, to the Division's July 20, 2018, opening letter.

4. On or about November 29, 2018, the Division sent Todd R. Manning, through his counsel, Seth M. Mott, Deputy General Counsel for M&M a follow-up investigation letter concerning RESPONDENT's involvement in the real estate transactions for the properties located at 7040 South Durango Drive and 7050 South Durango Drive and 7070 South Durango Drive, Las Vegas, NV 89113 ("The Durango Properties"), and specifically requested a copy of the Representation Agreement between the agent and the seller.

5. On or about January 11, 2019, the Division sent RESPONDENT's counsel a 233B letter, via certified mail, placing RESPONDENT on notice that the Division intended to commence disciplinary action by filing a formal complaint with the Nevada Real Estate Commission for violations NRS 645 and NAC 645.

FACTUAL ALLEGATIONS

7040 S. DURANGO DR. - ("THE PAD AT DURANGO")

1. On or about March 22, 2017, the seller executed the Purchase Agreement for 7040 South Durango Drive, Las Vegas, NV 89113 (APN 176-04-310-004) accepting the buyer's purchase offer of \$6,100,000.00.

2. On or about March 22, 2017, RESPONDENT executed the Purchase Agreement attesting that "[a]gent accepts and agrees to the foregoing. AGENT: MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES OF NEVADA."

1 3. The Purchase Agreement was also executed by Kevin Boeve on or about
2 March 22, 2017, as a co-agent for the seller, attesting that “[a]gent accepts agrees to the
3 foregoing. AGENT: MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES
4 OF NEVADA.”

5 4. Kevin Boeve has never held a Nevada real estate license or cooperative
6 certificate.

7 5. RESPONDENT assisted or offered to assist Kevin Boeve with the
8 representation of the seller of 7040 Durango Drive and/or the sale transaction of 7040
9 Durango Drive.

10 6. The Purchase Agreement for 7040 South Durango contains a dual agency
11 disclosure in paragraph 22b.

12 7. The Purchase Agreement contains a section on the signature page titled,
13 “SELLER'S ACCEPTANCE AND AGREEMENT TO PAY COMMISSION[.]” which states
14 as follows: “[s]eller affirms its agreement to pay to Agent a real estate brokerage
15 commission pursuant to the terms of that certain Representation Agreement between
16 Agent and Seller dated November 4, 2016, which shall remain in full force and effect.”

17 8. On or about November 19, 2018, the Division's investigator requested
18 RESPONDENT's counsel, to provide a copy of the Representation Agreement between the
19 Agent and Seller dated November 4, 2016.

20 9. On December 4, 2018, counsel for the RESPONDENT responded to the
21 Division's November 19, 2018 request and again indicated that “there was never an
22 Exclusive Listing Agreement” and that each such transaction was categorized as ‘open[.]’

23 10. The Purchase Agreements for the Durango Properties each identify the same
24 seller, Durango Arby Plaza, LLC.

25 11. M&M through its affiliate prepared an Offering Memorandum for The Pad
26 at Durango, which reflects that “all property showings are by appointment only[.]” and
27 the property is “Exclusively Represented by Pablo Rodriguez[.]” a senior associate of
28 M&M.

1 12. On March 21, 2017, the buyer signed, and on March 22, 2017, the seller
2 signed a Duties Owned by a Nevada Real Estate Licensee form, prepared by, or caused to
3 be prepared by, RESPONDENT.

4 13. The Duties Owed form indicates that the buyer and seller understand that
5 the licensee "may, in the future act for two of more parties who have interests adverse to
6 each other."

7 14. The Duties Owned form failed to identify the listing broker.

8 15. On March 21, 2017, the buyer signed, and on March 22, 2017, the seller
9 signed a Consent to Act form prepared by M&M identifying the licensee in the real estate
10 transaction as Richard Bird, Nevada Broker License B.1000924.CORP.

11 16. Division records indicate Richard Bird's Nevada Broker's License,
12 B.1000924.CORP, was voluntarily placed on dormant status on June 9, 2014, and
13 remains dormant.

14 17. Division records indicate Richard Bird was associated with M&M from
15 February 14, 2014, through June 9, 2014.

16 18. The Consent to Act form fails to identify the address of the subject property.

17 19. In accordance with the M&M Commission Booking statement reflecting a
18 close of escrow date of August 18, 2017, RESPONDENT was paid a net commission of
19 \$38,125.00, and Kevin Boeve was paid a net commission of \$42,750.00, each for acting in
20 the dual capacity of the listing agent and buying agent.

21 **7050 S. DURANGO DR. - ("STARBUCKS")**

22 20. On or about May 11, 2017, the seller executed the Purchase Agreement for
23 7050 South Durango Drive, Las Vegas, NV 89113 (APN 176-04-310-005), accepting the
24 buyer's purchase offer of \$2,750,000.00.

25 21. The Purchase Agreement contains the RESPONDENT's unsigned signature
26 block attesting that "[a]gent accepts and agrees to the foregoing. AGENT: MARCUS &
27 MILLICHAP REAL ESTATE INVESTMENT SERVICES OF NEVADA."

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1 22. The Purchase Agreement was also executed by Kevin Boeve on or about
2 March 22, 2017, as a co-agent for the seller, attesting that “[a]gent accepts agrees to the
3 foregoing. AGENT: MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES
4 OF NEVADA.”

5 23. Kevin Boeve has never held a Nevada real estate license or cooperative
6 certificate.

7 24. RESPONDENT assisted or offered to assist Kevin Boeve with the
8 representation of the seller of 7050 Durango Drive and/or the sale transaction of 7050
9 Durango Drive.

10 25. The Purchase Agreement contains a section on the signature page titled,
11 “SELLER'S ACCEPTANCE AND AGREEMENT TO PAY COMMISSION[,]” which states
12 as follows: “[s]eller affirms its agreement to pay to Agent a real estate brokerage
13 commission pursuant to the terms of that certain Representation Agreement between
14 Agent and Seller dated November 4, 2016, which shall remain in full force and effect.”

15 26. On May 9, 2017, the buyer signed, and on May 11, 2017, the seller signed a
16 Duties Owed By a Nevada Real Estate Licensee form, prepared by or caused to be
17 prepared by, RESPONDENT.

18 27. The Duties Owed form failed to indicate whether the buyer and seller
19 understood that the licensee “may, or may not, in the future act for two of more parties
20 who have interests adverse to each other.”

21 28. The Duties Owed form failed to identify the listing broker.

22 29. On May 9, 2017, the buyer signed, and on May 11, 2017, the seller signed a
23 Consent to Act form prepared by M&M identifying the licensee in the real estate
24 transaction as Richard Bird, Nevada Broker License B.1000924.CORP.

25 30. Division records indicate Richard Bird's Nevada Broker's License,
26 B.1000924.CORP, was voluntarily placed on dormant status on June 9, 2014, and
27 remains dormant.

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1 31. Division records indicate Richard Bird was associated with M&M from
2 February 14, 2014, through June 9, 2014

3 32. The Consent to Act form fails to identify the address of the subject property.

4 33. The Fidelity National Title Order to Pay Commission dated August 23, 2017,
5 and signed by the seller and Kevin Boeve reflects that \$82,500.00 was paid to M&M.

6 34. In accordance with the M&M Commission Booking statement reflecting a
7 close of escrow date of August 25 2017, which erroneously identifies the property address
8 as 7070 South Durango Drive, Las Vegas, Nevada 89113, the RESPONDENT was paid a
9 net commission of \$16,500.00 and Kevin Boeve was paid a net commission of \$19,800.00,
10 each for acting as the seller's agent.

11 **7070 S. DURANGO DR. - ("SHOPS AND GYM AT DURANGO")**

12 35. On or about June 2, 2017, the seller executed the Purchase Agreement for
13 7070 South Durango Drive, Las Vegas, NV 89113 (APN 176-04-301-010), accepting the
14 buyer's purchase offer of \$18,000,000.00.

15 36. Paragraph 21.1 of the Purchase Agreement identifies that the
16 RESPONDENT and Kevin Boeve represent the seller.

17 37. The Purchase Agreement contains the RESPONDENT's signature attesting
18 that "[a]gent accepts and agrees to the foregoing. AGENT: MARCUS & MILLICHAP
19 REAL ESTATE INVESTMENT SERVICES OF NEVADA."

20 38. The Purchase Agreement was also executed by Kevin Boeve on or about
21 March 22, 2017, as a co-agent for the seller, attesting that "[a]gent accepts agrees to the
22 foregoing. AGENT: MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES
23 OF NEVADA."

24 39. Kevin Boeve has never held a Nevada real estate license or cooperative
25 certificate.

26 40. RESPONDENT assisted or offered to assist Kevin Boeve with the
27 representation of the seller of 7050 Durango Drive and/or the sale transaction of 7050
28 Durango Drive.

1 41. The Purchase Agreement contains a section on the signature page titled,
2 "SELLER'S ACCEPTANCE AND AGREEMENT TO PAY COMMISSION[.]" which states
3 as follows: "[s]eller affirms its agreement to pay to Agent a real estate brokerage
4 commission pursuant to the terms of that certain Representation Agreement between
5 Agent and Seller dated November 4, 2016, which shall remain in full force and effect."

6 42. On or about June 2, 2017, the seller signed a Duties Owned By a Nevada
7 Real Estate Licensee form, prepared by or caused to be prepared by, RESPONDENT.

8 43. The Duties Owed form failed to indicate whether the seller understood that
9 the licensee "may, or may not, in the future act for two of more parties who have interests
10 adverse to each other."

11 44. The Duties Owned form failed to identify the listing broker.

12 45. On or about June 2, 2017, the seller signed a Consent to Act form prepared
13 by M&M identifying the licensee in the real estate transaction as Richard Bird, Nevada
14 Broker License B.1000924.CORP.

15 46. Division records indicate Richard Bird's Nevada Broker's License,
16 B.1000924.CORP, was voluntarily placed on dormant status on June 9, 2014, and
17 remains dormant.

18 47. Division records indicate Richard Bird was associated with M&M from
19 February 14, 2014, through June 9, 2014.

20 48. M&M prepared an Offering Memorandum for the Shops and Gym at
21 Durango.

22 49. In accordance with the M&M Commission Booking statement reflecting a
23 close of escrow date of August 30, 2017, RESPONDENT was paid a net commission of
24 \$22,706.25, and Kevin Boeve was paid a net commission of \$27,247.50, as the seller's
25 agent.

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1 **VIOLATIONS ALLEGED**

2 RESPONDENT has committed the following violations of law:

3 1. RESPONDENT violated NRS 645.230(1)(a) and NRS 645.235(1)(b) three times
4 by assisting unlicensed persons in activities that require a Nevada Real Estate license.

5 **DISCIPLINE AUTHORIZED**

6 2. Pursuant to NRS 645.235(2), the Commission is empowered to impose an
7 administrative fine of up to the amount of any gain or economic benefit derived from the
8 violation or \$5,000.00, which ever amount is greater, per violation against
9 RESPONDENT.

10 3. Pursuant to NRS 645.633(1)(b), the Commission is empowered to suspend,
11 revoke or place conditions on the license of RESPONDENT.

12 4. Pursuant to NRS 645.314, the Division is authorized to request its
13 investigative costs where the investigation was undertaken for disciplinary purposes.

14 5. Additionally, under NRS 622.400, the Commission is authorized to impose
15 costs of the proceeding upon RESPONDENT, including investigative costs and attorney's
16 fees, if the Commission otherwise imposes discipline on RESPONDENT.

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

19 **NOTICE OF HEARING**

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

24 **THE HEARING WILL TAKE PLACE** on August 20-22, 2019, commencing at
25 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter,
26 and each day thereafter commencing at 9:00 a.m. through August 22, 2019, or
27 earlier if the business of the Commission is concluded. The Commission meeting
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1 will be held each day at the Nevada Division of Insurance, 1818 East College
2 Parkway, suite 103, Carson City, Nevada 89706.

3 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled
4 at the same time as part of a regular meeting of the Commission that is
5 expected to last from August 20-22, 2019 or earlier if the business of the
6 Commission is concluded. Thus, your hearing may be continued until later in
7 the day or from day to day. It is your responsibility to be present when your
8 case is called. If you are not present when your hearing is called, a default may
9 be entered against you and the Commission may decide the case as if all
10 allegations in the complaint were true. If you have any questions please call
11 Evelyn Pattee Commission Coordinator (702) 486-4074.

12 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an
13 open meeting under Nevada's open meeting law, and may be attended by the public.
14 After the evidence and arguments, the commission may conduct a closed meeting to
15 discuss your alleged misconduct or professional competence. A verbatim record will be
16 made by a certified court reporter. You are entitled to a copy of the transcript of the open
17 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
19 and be heard in your defense, either personally or through your counsel of choice. At the
20 hearing, the Division has the burden of proving the allegations in the complaint and will
21 call witnesses and present evidence against you. You have the right to respond and to
22 present relevant evidence and argument on all issues involved. You have the right to call
23 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
24 matter relevant to the issues involved.

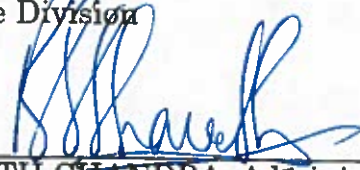
25 You have the right to request that the Commission issue subpoenas to compel
26 witnesses to testify and/or evidence to be offered on your behalf. In making the request,
27 you may be required to demonstrate the relevance of the witness' testimony and/or
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1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

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


7 DATED this 19 day of July, 2019.

8 STATE OF NEVADA
9 Department of Business and Industry
10 Real Estate Division

11 By: 
12 SHARATH CHANDRA, Administrator
13 3300 W. Sahara Avenue, Ste. 350
14 Las Vegas, Nevada 89102

15 DATED this 18th day of July, 2019.

16 AARON D. FORD
17 Attorney General

18 By: 
19 PETER K. KEEGAN
20 Deputy Attorney General
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23 Tel: (775) 684-1153
24 Attorneys for Real Estate Division
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