

1 **BEFORE THE REAL ESTATE COMMISSION**

2 **STATE OF NEVADA**

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

8 Petitioner,

9 vs.

10 CESAR A. TALAVERA,

11 Respondent.

Case No. 2018-1272

COMPLAINT AND NOTICE OF
HEARING

FILED

JUL 15 2019

REAL ESTATE COMMISSION
 Evelyn Tattler

12 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND
13 INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Aaron
14 D. Ford, Attorney General of the State of Nevada, and Peter Keegan, Deputy Attorney
15 General, hereby notifies RESPONDENT CESAR A. TALAVERA ("RESPONDENT") of an
16 administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION
17 ("Commission"). The hearing will be held pursuant to Chapter 233B and Chapter 645 of
18 the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code
19 ("NAC"). The purpose of the hearing is to consider the allegations stated below and to
20 determine if the RESPONDENT should be subject to an administrative penalty or other
21 discipline authorized by NRS 645 and/or NAC 645, if violations of law are proven.

22 **JURISDICTION**

23 RESPONDENT was at all relevant times mentioned in this Complaint licensed as a
24 real estate broker salesperson under License Number BS.0045231, and is therefore subject
25 to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC Chapter
26 645.

27 **PROCEDURAL HISTORY**

28 1. RESPONDENT has been licensed as a real estate broker, License Number
BS.0045231, since August 1, 2000 and is currently in active status.

1 2. RESPONDENT identifies himself as a Vice President of Investments and
2 Broker Salesperson for Marcus & Millichap Real Estate Investment Services of Nevada,
3 Inc.

4 3. On or about September 4, 2018, the Division received a complaint and
5 statement of facts against the RESPONDENT alleging RESPONDENT misrepresented the
6 status of the titles for mobile homes at a mobile home park he marketed.

7 4. On or about September 6, 2018, the Division sent an investigation opening
8 letter to RESPONDENT, which required RESPONDENT to provide a sworn statement
9 along with a copy of the broker file for the sales transaction in question not later than
10 September 20, 2018.

11 5. On or about October 2, 2018, after granting RESPONDENT extensions, the
12 Division received the RESPONDENT's sworn declaration in response to the Division's
13 opening letter.

14 6. On or about November 6, 2018, the Division's investigator sent
15 RESPONDENT a Notice of Violation with Imposition of Administrative Fine, which
16 imposed a \$17,500.00 fine for thirty-four (34) violations of NRS 645.252(1)(a) pursuant to
17 NRS 645.258(1)(a) & (b) & (c) as well as NRS 645.633(1)(h).

18 7. On or about December 3, 2018, counsel for the RESPONDENT sent the
19 Division a written request for appeal of the Notice of Violation with Imposition of
20 Administrative Fine.

21 8. On or about January 17, 2019, the Division sent RESPONDENT's counsel a
22 233B letter, via certified mail, placing RESPONDENT on notice that the Division intended
23 to commence disciplinary action by filing a formal complaint with the Nevada Real Estate
24 Commission for violations NRS 645 and NAC 645.

25 **FACTUAL ALLEGATIONS**

26 9. On March 8, 2018, RESPONDENT entered into an Exclusive Right to sell
27 Agreement with the sellers of the Las Vegas Mobile Home Park located at 3975 E. Lake
28 Mead Blvd., Las Vegas, Nevada 89115, APN# 140-19-701-003 ("the Property").

1 10. The Exclusive Right to Sell Agreement specifically identifies that "ALL PARK
2 OWNED HOMES & NOTE INVENTORY ARE INCLUDED IN THE SALES PRICE[.]"

3 11. The Exclusive Right to Sell Agreement sets the Commission for the
4 RESPONDENT at 3% of the purchase price.

5 12. The Exclusive Right to Sell Agreement identifies Todd Manning, of Marcus &
6 Millichap, as the Broker for the transaction.

7 13. The Offering Memorandum utilized by the RESPONDENT to market the
8 property repeatedly identifies that the Property is a Las Vegas Mobile Home Park that
9 includes 34 used manufactured homes owned by the park.

10 14. RESPONDENT has failed to provide any information demonstrating that any
11 of the park owned homes were converted to real property.

12 15. The Offering Memorandum also contains financial analysis of the rent rolls
13 park owned homes included with the Property.

14 16. The Offering Memorandum contains a section of market comparables, which
15 identifies several mobile home parks in Nevada prospective buyers can compare to the
16 Property.

17 17. The Offering Memorandum also contains a section regarding Manufactured
18 Housing trends and Market analysis.

19 18. On April 25, 2018, RESPONDENT had the seller and buyer execute a Duties
20 Owned by Nevada Real Estate Licensee Form but failed to indicate whether or not the
21 seller and buyer understood and authorized that the RESPONDENT "may, in the future
22 act for two or more parties who have interests adverse to each other."

23 19. On April 25, 2018, RESPONDENT also had the seller and the buyers execute
24 a Consent to Act Form.

25 20. On April 25, 2018, the RESPONDENT assisted the buyer and seller in
26 preparation of a Purchase and Sale Agreement with Joint Closing Instructions, wherein
27 the buyer submitted a winning bid/offer through Ten-X, LLC in the amount of
28 \$1,680,000.00.

1 21. The April 25, 2018, Purchase and Sale Agreement with Joint Closing
2 Instructions included a legal description of the Property, which expressly excepts “any
3 mobile/manufactured home located thereon.”

4 22. On May 8, 2018, the RESPONDENT emailed the buyer regarding the titles
5 for the park owned homes and stated “[t]he seller cam [sic] to Vegas today and has some of
6 the titles, I will pick them up tomorrow and mail them to you.”

7 23. On May 24, 2018, the RESPONDENT prepared or caused to be prepared an
8 Addendum to the Purchase and Sale Agreement with Joint Closing Instructions dated April
9 25, 2018.

10 24. The May 24, 2018, Addendum specifies that “Marcus & Millichap is not a
11 licensed mobile home dealer as required by NRS 118B and is not receiving any
12 compensation for the transfer of the park-owned homes. Furthermore, Marcus & Millichap
13 has agreed to reduce its fee based upon the estimated value of the 34 park-owned homes
14 being transferred to the Buyer. Broker and Seller shall have no liability for damages, losses,
15 causes of action, or other claims (including attorneys’ fees and other defense costs) arising
16 from or asserted in connection with the park-owned homes. The \$20,000 credit releases
17 Seller and Marcus and Millichap from all liability incurred as a result of the transfer of the
18 park-owned homes.”

19 25. The May 24, 2018, Addendum was unsigned by the buyer and seller.

20 26. Nevada Revised Statutes Chapter 489 govern the licensure of dealers of
21 manufactured homes, mobile homes, and similar vehicles.

22 27. Pursuant to NRS 489.331, “[a] licensed real estate broker and his or her
23 licensed salespersons may, without applying for or obtaining any license issued pursuant
24 to the provisions of this chapter, sell used manufactured homes and used mobile homes
25 when the sale is in connection with the sale of a fee simple interest in real property and the
26 used manufactured home or used mobile home is situated on the real property.”

27 28. Pursuant to NRS 645.258(1), “[i]n any transaction involving a used
28 manufactured home or used mobile home that has not been converted to real property

1 pursuant to NRS 361.244, a licensee shall provide to the purchaser" a completed copy of
2 Form 610, the Nevada Real Estate Division's Manufactured Home Disclosure Form.

3 29. The RESPONDENT failed to provide copies of the Nevada Real Estate
4 Division's Manufactured Home Disclosure Form 610 for the 34 park owned used
5 manufactured homes identified as included in the sale of the Property.

6 VIOLATIONS ALLEGED

7 RESPONDENT has committed the following violations of law:

8 1. RESPONDENT violated NRS 645.633(1)(b) and NRS 645.252(1)(a) pursuant to
9 NRS 645.258(1) thirty-four times by failing to provide the seller with Form 610, the Used
10 Manufactured/Mobile Home Disclosure, which contains material and relevant facts that
11 the RESPONDENT should have known relating to the Property and that were required to
12 be produced by the Nevada Real Estate Division.

13 2. RESPONDENT violated NRS 645.633(1)(h) by failing to demonstrate an
14 understanding of the rights and responsibilities of a real estate broker salesperson
15 pursuant to the laws regulating the sale of used manufactured homes or mobile homes in
16 the State of Nevada.

17 DISCIPLINE AUTHORIZED

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

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

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

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

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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 August 20-22, 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 August 22, 2019, or earlier if the business of the Commission is concluded. The Commission meeting will be held each day at the Nevada Division of Insurance, 1818 East College Parkway, suite 103, Carson City, Nevada 89706.

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

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

As the Respondent, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the

1 hearing, the Division has the burden of proving the allegations in the complaint and will
2 call witnesses and present evidence against you. You have the right to respond and to
3 present relevant evidence and argument on all issues involved. You have the right to call
4 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
5 matter relevant to the issues involved.

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

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


15 DATED this 15 day of July, 2019.

16 STATE OF NEVADA
17 Department of Business and Industry
18 Real Estate Division

19 By: 
20 SHARATH CHANDRA, Administrator
21 3300 W. Sahara Avenue, Ste. 350
Las Vegas, Nevada 89102

22 DATED this 15th day of July, 2019.

23 AARON D. FORD
24 Attorney General

25 By: 
26 PETER K. KEEGAN
27 Deputy Attorney General
28 100 North Carson Street
Carson City, Nevada 89701
(775) 684-1153
Attorneys for Real Estate Division