

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2018-1343

Petitioner,

**FILED**

vs.

MAY 15 2020

ED FRAGA,

REAL ESTATE COMMISSION

Respondent.

BY *Emily Patten*

**COMPLAINT AND NOTICE OF HEARING**

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies ED FRAGA ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("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 and/or NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

**JURISDICTION**

RESPONDENT, at all relevant times mentioned in this Complaint, engaged in conduct requiring a license from the Division when he did not hold any licenses from the Division. He is therefore subject to the jurisdiction of the Division and the Commission and the provisions of NRS chapter 645 and NAC chapter 645.

**FACTUAL ALLEGATIONS**

1. RESPONDENT does not hold any licenses with the Division.
2. On May 8, 2018, RESPONDENT filed a complaint with the Division against real estate agent Michelle Kim and her broker, Kamran Zand, stating that RESPONDENT's company had an exclusive listing agreement to sell that certain property known as Clark County Assessor's Parcel No. 177-09-701-

1 012, commonly known as 7840 Gilespe Street, Las Vegas, NV 89123 (the "Property") with its owner,  
2 Kevin L. Krauel ("Krauel").

3 3. RESPONDENT entered into an Exclusive Authorization and Right to Sell, Exchange, or Lease  
4 Brokerage Listing Agreement with Krauel, effective May 19, 2017, and expiring on November 19, 2019  
5 to sell the Property ("Listing Agreement").

6 4. The Listing Agreement identified RESPONDENT as the broker and stated that RESPONDENT  
7 would receive 6 percent of the gross selling price of the Property if sold.

8 5. RESPONDENT stated in his complaint, that Kim obstructed and colluded in the sale of the  
9 Property and obtained a new listing agreement and began advertising the Property which was already  
10 subject to his company's Listing Agreement.

11 6. On September 25, 2018, the Division issued RESPONDENT a Cease and Desist Order to stop  
12 engaging in real estate activities that require a license and/or permit from the Division.

13 7. On September 27, 2018, the Division properly notified RESPONDENT it had opened an  
14 investigation regarding his listing of the Property and requested a response regarding why he was  
15 conducting activities with respect to the Property that require a license from the Division.

16 8. In response to the Division, RESPONDENT stated he was named the administrator of funds  
17 stemming from a loan on the Property at the request of the lender, and that the loan funds were to be  
18 placed into an escrow account.

19 9. In response to the Division's investigation, RESPONDENT produced an agreement dated June  
20 8, 2017, where Krauel appointed RESPONDENT to be the administrator of funds in an escrow account  
21 at Ticor Title for the Property for the purposes of cleaning, disposing miscellaneous items, and for repair  
22 and maintenance ("Administrator Agreement").

23 10. The Administrator Agreement also provided that if Krauel changed his mind after work on the  
24 Property had started, RESPONDENT would be paid a cancellation fee not to exceed 6 percent of the  
25 Property's value at the time of cancellation.

26 11. RESPONDENT claims that the funds were misappropriated from the escrow account and then  
27 issued to the borrower, when the funds should have remained in an escrow account and should have been  
28 used to pay for work as it was completed on the Property.

1 12. RESPONDENT stated that after the loan funded, the broker, Angel Fajardo, was interested in keeping  
2 the house for himself, allowed the borrower to remain in the Property, and colluded with the lender.

3 13. In his response to the Division, RESPONDENT did not deny that he entered into the Listing  
4 Agreement and was the broker under it while not holding the appropriate license to do so from the  
5 Division.

6 14. Kim responded to the Division and stated that she had been contacted by an attorney to list the  
7 Property because the attorney believed RESPONDENT was coercing Krauel into selling the Property.

8 15. On November 8, 2018, RESPONDENT was properly notified by the Division it was bringing a  
9 complaint against him for disciplinary action before the Nevada Real Estate Commission.

### 10 VIOLATIONS

11 16. RESPONDENT violated NRS 645.235(1)(a) by entering into the Listing Agreement and being  
12 the broker under it without holding the appropriate license from the Division.

### 13 DISCIPLINE AUTHORIZED

14 1. Pursuant to NRS 645.235, the Commission is empowered to impose an administrative fine in  
15 the amount of any gain or economic benefit that the person derived from the violation or \$5,000,  
16 whichever amount is greater.

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

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

### 22 NOTICE OF HEARING

23 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the  
24 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and  
25 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

26 **THE HEARING WILL TAKE PLACE on June 16, 2020 commencing at 9:00 a.m., or as**  
27 **soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing**  
28 **at 9:00 a.m. through June 18, 2020, or earlier if the business of the Commission is concluded. The**

1 Commission meeting will be held on June 16, 2020, at the Nevada State Business Center, 3300 West  
2 Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue  
3 on June 17, 2020, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor –  
4 Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on June 18, 2020, should  
5 business not be concluded, starting at 9:00 a.m. at the Nevada State Business Center, 3300 West  
6 Sahara Avenue, 4th Floor – Tahoe Room, Las Vegas, Nevada 89102.

7 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same  
8 time as part of a regular meeting of the Commission that is expected to last from June 16, 2020,  
9 through June 18, 2020, or earlier if the business of the Commission is concluded. Thus, your  
10 hearing may be continued until later in the day or from day to day. It is your responsibility to be  
11 present when your case is called. If you are not present when your hearing is called, a default may  
12 be entered against you and the Commission may decide the case as if all allegations in the complaint  
13 were true. If you have any questions please call Evelyn Pattee, Commission Coordinator (702) 486-  
14 4074.

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

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

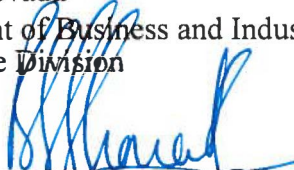
26 You have the right to request that the Commission issue subpoenas to compel witnesses to testify  
27 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate  
28

1 the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in  
2 NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

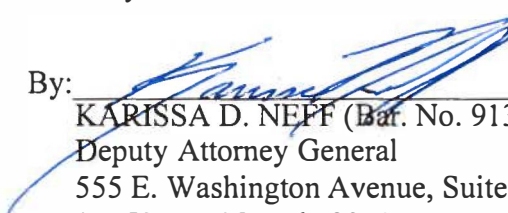
3 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC  
4 645 and if the allegations contained herein are substantially proven by the evidence presented and  
5 to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,  
6 pursuant to NRS 645.235, 645.633 and or 645.630.

7 DATED this 8<sup>th</sup> day of May, 2020.

8 State of Nevada  
9 Department of Business and Industry  
10 Real Estate Division

11 By:   
12 SHARATH CHANDRA, Administrator  
13 3300 West Sahara Avenue, Suite 350  
14 Las Vegas, Nevada 89102

15 AARON D. FORD  
16 Attorney General

17 By:   
18 KARISSA D. NEFF (Bar. No. 9133)  
19 Deputy Attorney General  
20 555 E. Washington Avenue, Suite 3900  
21 Las Vegas, Nevada 89101  
22 (702) 486-3894  
23 Attorneys for Real Estate Division  
24  
25  
26  
27  
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