

FILED

BEFORE THE REAL ESTATE COMMISSION

JUL 29 2020

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *Evelyn Patten*

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

Case No. 2018-1466

Petitioner,

**COMPLAINT AND NOTICE OF
HEARING**

vs.

MICHELLE LENA E HARMON,

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 MICHELLE LENA E HARMON ("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

At all times relevant, RESPONDENT held a real estate salesperson license, S.0180029 as well as a property management permit, PM0166966. RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, and/or a permit to engage in property management, 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.

1 **PROCEDURAL HISTORY**

2 1. On or about October 11, 2018, the Division received a statement of fact
3 (“complaint”) complaining that RESPONDENT materially altered property management
4 agreements executed by the complainant.

5 2. On or about October 17, 2018, the Division sent an investigation-opening
6 letter to RESPONDENT, which required RESPONDENT to provide a sworn statement
7 responding to the complaint, no later than October 31, 2018.

8 3. On or about October 17, 2018, an investigation-opening letter was also sent to
9 the RESPONDENT’s broker of record, Jason Evanchak, B.0143842.CORP,. of Realty
10 Corner Inc. dba PMI Nevada, requiring him to provide a sworn statement responding to
11 the complaint along with a complete copy of the broker’s transaction file for the property in
12 question.

13 4. On or about November 12, 2018, the Division received the RESPONDENT’s
14 sworn affidavit.

15 5. On or about March 12, 2019, the Division sent RESPONDENT an NRS 233B
16 letter indicating that the Division’s investigation had obtained sufficient evidence to
17 commence disciplinary action by filing a complaint with the Nevada Real Estate
18 Commission (“Commission”).

19 **FACTUAL ALLEGATIONS**

20 1. At all times relevant, RESPONDENT held a real estate salesperson license,
21 S.0180029 as well as a property management permit, PM0166966.

22 2. On or about August 14, 2017, RESPONDENT’s brokerage entered into a
23 Residential Property Management Agreement with the owners of the property at 6339
24 Alderlyn Avenue, Las Vegas, Nevada 89122 (“the Property”).

25 3. On or about September 8, 2017, the complainants herein signed a Residential
26 Lease/Rental Agreement for the property in question.

27 4. RESPONDENT signed the Residential Lease/Rental Agreement as the
28 Property Manager.

1 5. The term of the Residential Lease/Rental Agreement was to terminate
2 September 30, 2018.

3 6. On or about August 5, 2018, the complainants signed Addendum No. 1 to the
4 Residential Lease Agreement, which specified “[t]he new lease term will expire on March
5 31, 2019 at 11:59 pm.”

6 7. RESPONDENT signed Addendum No. 1 to the Residential Lease Agreement
7 as the authorized agent for the broker.

8 8. On or about October 5, 2018, the complainants paid the October 2018 rent for
9 the property.

10 9. The RESPONDENT’s brokerage ledger for the property in question does not
11 include receipt of the complainants’ rent payment on October 5, 2018.

12 10. The complainants received a Thirty-Day “No Cause” Notice to Quit on October
13 5, 2018.

14 11. The Thirty-Day “No Cause” Notice to Quit showed a date of service of
15 September 17, 2018.

16 12. The Notice to Quit required the complainants to vacate the property in
17 question no later than 30 calendar days following the date of service of the Notice to Quit.

18 13. The complainants received a copy of Addendum No. 1 to the Residential Lease
19 Agreement from property owner’s listing agent, which stated “[t]he new lease term will
20 expire on October 18, 2018 at 11:59 pm.”

21 14. On or about October 10, 2018, the complainants received a Five-Day Notice to
22 Pay Rent or Quit.

23 15. RESPONDENT admitted in her November 12, 2018, Response to the Division
24 that she altered the lease termination date on Addendum No. 1 to Residential Lease
25 Agreement to reflect October 31, 2018.

26 16. RESPONDENT admitted in her November 12, 2018, Response to the Division
27 that she made a material misrepresentation to the complainants stating that the lease
28 extension was not in effect.

1 17. RESPONDENT admitted in her November 12, 2018, Response to the Division
2 that she fraudulently changed her brokerage's ledger for the property in question to delete
3 receipt of the complainants October rent payment.

4 18. RESPONDENT's Broker terminated her from her position on November 12,
5 2018.

6 VIOLATIONS ALLEGED

7 RESPONDENT has committed the following violations of law:

8 1. RESPONDENT violated NRS 645.3205 and/or NAC 645.605(1) for dealing
9 with a party to a real estate transaction in a manner which is deceitful, fraudulent, or
10 dishonest when RESPONDENT changed the lease termination date on Addendum No. 1 to
11 Residential Lease Agreement and when she deleted the Complainants rent payment for
12 October 2018 from her brokerage's ledger for the property in question.

13 2. RESPONDENT violated NRS 645.630(1)(a) and/or NAC 645.605(6) for failing
14 to deal fairly and for making misrepresentations to the complainants when RESPONDENT
15 informed them that Addendum No. 1 to the Residential Lease Agreement they had signed
16 was not in effect since the owners of the property had not signed the agreement.

17 3. RESPONDENT violated NRS 645.635(1) for offering the property in question
18 for lease on terms other than those authorized by the owner when RESPONDENT
19 presented Addendum No. 1 to Residential Lease Agreement to the complainants with an
20 expiration date of March 31, 2019.

21 4. RESPONDENT violated NRS 645.635(5) when she presented the altered
22 Addendum No. 1 to Residential Lease Agreement to a real estate licensee representing a
23 party to the transaction to sell the property in question.

24 DISCIPLINE AUTHORIZED

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

28 2. Pursuant to NRS 645.314, the Division is authorized to request its

1 investigative costs where the investigation was undertaken for disciplinary purposes.

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

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

7 **NOTICE OF HEARING**

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

12 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
13 September 1-3, 2020, beginning at approximately 9:00 a.m. each day, or until such time
14 as the Commission concludes its business.

15 If the Governor's Emergency Directive 006 - suspending physical location
16 requirements - is extended through the date of the meeting, then the hearing will be held
17 via teleconference and videoconference. The Commission uses WebEx for its meetings. To
18 join the hearing go to the website Webex.com and put in the Meeting ID and Password:

19 **TUESDAY, SEPTEMBER 1, 2020** Meeting number (Access code): 146 276 8028

20 Password (Attendee ID): MgCrCbJq662 (64272257662 from phones and video systems)

21 **WEDNESDAY, SEPTEMBER 2, 2020** Meeting number (Access Code): 146 650 1911

22 Password (Attendee ID): 2rGzteBYY24 (27498329924 from phones and video systems)

23 **THURSDAY, SEPTEMBER 3, 2020** Meeting number (Access Code): 146 520 3582

24 Password (Attendee ID): umV3mJJ2gP2 (86836552472 from phones and video systems)

25 If you do not have internet access, you may attend by phone at 1-844-621-3956
26 using the access codes and attendee IDs listed above. Some mobile devices may ask
27 attendees to enter a numeric attendee ID provided above. If Emergency Directive 006 is

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1 not extended and the meeting is held in person, then the meeting will be located at the
2 following locations:

3 Nevada State Business Center
4 Real Estate Division
5 3300 West Sahara Avenue, Suite 350
6 Las Vegas, NV 89102

7 If you would like an email containing this information, before the hearing, please
8 contact Evelyn Pattee, Commission Coordinator, at (702) 486-4074 or epattee@red.nv.gov.

9 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled
10 at the same time as part of a regular meeting of the Commission that is expected
11 to last from September 1st through September 3, 2020, but may end earlier if the
12 business of the Commission is concluded. Thus, your hearing may be continued
13 until later in the day or from day to day. It is your responsibility to be present
14 when your case is called. If you are not present when your hearing is called, a
15 default may be entered against you and the Commission may decide the case as
16 if all allegations in the complaint were true. If you have any questions please call
17 Evelyn Pattee Commission Coordinator (702) 486-4074.

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

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

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


6 The purpose of the hearing is to determine if the RESPONDENT has violated NRS
7 645 and/or NAC 645 and if the allegations contained herein are substantially proven
8 by the evidence presented and to further determine what administrative penalty, if any, is
9 to be assessed against the RESPONDENT.


10
11 DATED this 23 day of July, 2020.

DATED this 22nd day of July, 2020.

12
13 STATE OF NEVADA,
14 Department of Business & Industry
15 Real Estate Division

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Attorney General

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