

FILED

BEFORE THE REAL ESTATE COMMISSION JUL 29 2020

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *Suljan Patel*

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

Case No. 2019-640

Petitioner,

**COMPLAINT AND NOTICE OF
HEARING**

vs.

LINDA S. HARTMAN,

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 LINDA S. HARTMAN ("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 broker-salesperson license, BS.0017739. RESPONDENT engaged in activities, 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.

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PROCEDURAL HISTORY

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2 1. On or about June 14, 2019, the Division received a decision of the Board of
3 Directors for the Reno/Sparks Association of Realtors, Inc. ("RSAR"), which affirmed the
4 Decision of the of Ethics Panel of the Professional Standards Committee from the RSAR,
5 finding that RESPONDENT and her broker, Kathryn Miner, B.0001157.LLC, violated the
6 RSAR Code of Ethics.

7 2. On or about June 17, 2019, the Division sent an investigation-opening letter
8 to RESPONDENT, which required RESPONDENT to provide a sworn statement
9 addressing the RSAR Decision.

10 3. On or about June 17, 2019, an investigation-opening letter was also sent to
11 the RESPONDENT's broker of record, Kathryn Miner, B.0001157.LLC, of Miner Realty of
12 Nevada, LLC, requiring her to provide a sworn statement addressing the RSAR Decision,
13 along with a complete copy of the broker's transaction file for the property in question.

14 4. On or about July 2, 2019, the Division received Kathryn Miner's sworn
15 affidavit and broker's transaction file.

16 5. On or about July 3, 2019, the Division received the RESPONDENT's sworn
17 affidavit.

18 6. On or about October 16, 2019, the Division sent RESPONDENT an NRS
19 233B letter indicating that the Division's investigation had obtained sufficient evidence to
20 commence disciplinary action by filing a complaint with the Nevada Real Estate
21 Commission ("Commission").

FACTUAL ALLEGATIONS

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23 1. At all times relevant, RESPONDENT held a real estate broker-salesperson
24 license, BS.0017739.

25 2. RESPONDENT has been a licensee since 1986.

26 3. On or about April 24, 2018, the sellers of the property located at 2531, 2533
27 Orovado St., Reno, NV 89512 ("the Property"), signed an Exclusive Right to Sell Contract
28 for the Property granting Trans-Action Realty 500 as the Broker of record.

1 4. The Property was input into the Northern Nevada Regional Multiple Listing
2 Service ("MLS") on April 24, 2018.

3 5. The sellers of the Property signed a Residential Offer and Acceptance
4 Agreement presented by their broker of record, Trans-action Realty 500, in the amount of
5 \$80,000.00, on April 25, 2018.

6 6. The day of input, on April 24, 2018, the MLS status showed the Property as
7 "Pending-no show."

8 7. On or about May 3, 2018, the RESPONDENT prepared a Residential Offer
9 and Acceptance Agreement for the Property, in the amount of \$139,000.00 and signed by
10 both the buyer and seller.

11 8. In RESPONDENT's sworn affidavit response to the Division, she attested
12 that she "did not put an expiration date on the contract."

13 9. RESPONDENT allowed her client to take the Residential Offer and
14 Acceptance Agreement, dated May 3, 2018, with him, knowing that it was possible that
15 he would present the offer directly to the seller who was a party to an exclusive listing
16 agreement.

17 10. In RESPONDENT's sworn affidavit response to the Division, she attested
18 that she pulled the Property up on the MLS and told her client that the client's offer
19 would need to be a backup offer.

20 11. The Residential Offer and Acceptance Agreement dated May 3, 2018, does
21 not state that it is a backup offer.

22 12. As part of the RESPONDENT's sworn affidavit response to the Division, the
23 RESPONDENT's client attested, in an undated statement, that "[w]e were not aware the
24 property was listed until I met with [the sellers] that night to give them the offer."

25 13. The May 3, 2018, Offer and Acceptance Agreement prepared by
26 RESPONDENT misstates that the buyer was paying cash for the Property.

27 14. RESPONDENT's buyer client obtained two mortgages, both on June 5, 2018,
28 secured by the Property, for the purchase of the Property.

1 15. RESPONDENT did not prepare an addendum to the May 3, 2018, purchase
2 agreement reflecting the correct financing terms.

3 16. The June 10, 2018, RSAR Decision reflects that RESPONDENT testified
4 during the Ethics Panel Hearing that she had worked with her client on previous
5 properties and knew that he would have no issues with getting the loans.

6 17. RESPONDENT's Broker, Kathryn Miner, incorrectly attested in her sworn
7 affidavit response to the Division that the loans obtained by RESPONDENT's buyer
8 client were personal and would not encumber the Property.

9 18. RESPONDENT's client was informed by the seller of the Property in
10 question, that he had already accepted an offer to purchase the Property when
11 RESPONDENT's client personally presented the seller with the Residential Offer and
12 Acceptance Agreement prepared by RESPONDENT.

13 19. On or about May 2, 2018, the sellers contacted their listing agent and
14 explained that they wanted to rescind their acceptance of the April 24, 2018, Offer and
15 Acceptance Agreement because "[o]n Monday the 30th of April a friend of ours (John
16 Stempeck) presented us with an offer on the Orovada duplex for \$139,000.00."

17 20. On May 3, 2018, the sellers accepted the offer prepared by the
18 RESPONDENT.

19 21. The May 3, 2018, purchase agreement listed the earnest money deposited
20 was to be made payable to Western Title Company.

21 22. The June 3, 2018, RSAR Decision reflects that during the RSAR Ethics
22 Panel Hearing, the RESPONDENT's client testified that after acceptance of the May 3,
23 2018, offer, the title company was changed to Capital Title Company at the direction of
24 the RESPONDENT.

25 23. On May 11, 2018, RESPONDENT generated and submitted an Escrow
26 Cancellation Instructions and Addendum to Western Title Company for the first offer.

27 24. The Escrow Cancellation Instructions and Addendum became effective on
28 June 13, 2018, the date of the final party's signature.

1 25. The May 3, 2018 purchase agreement was never amended to reflect the new
2 title company information.

3 26. The June 10, 2018, RSAR Decision reflects that RESPONDENT testified
4 before the RSAR Ethics Hearing Panel of the Professional Standards Committee that she
5 did not contact the listing agent for the Property prior to writing the Residential Offer
6 and Acceptance Agreement, despite knowing the property was in escrow.

7 27. In RESPONDENT's sworn affidavit to the Division, she attested that she
8 spoke to the listing agent on the phone during the transaction.

9 28. The June 3, 2018, RSAR Decision reflects that RESPONDENT testified to
10 the RSAR Ethics Hearing Panel of the Professional Standards Committee that she did not
11 communicate with the listing agent for the Property throughout the transaction between
12 the listing agent's client and RESPONDENT's client.

13 29. The RSAR Ethics Hearing Panel of the Professional Standards Committee
14 found "clear, strong and convincing evidence" RESPONDENT "communicated directly"
15 with the seller of the Property during the transaction.

16 30. The RSAR Ethics Hearing Panel decision was affirmed by the RSAR Board
17 of Directors on June 3, 2019, and RESPONDENT was suspended for 6 months and fined
18 \$15,000.00.

19 31. As part of the RSAR Board of Director's decision, the decision of the Ethic's
20 Panel was submitted to the Division.

21 32. RESPONDENT failed to notify the Division that she was acting as the
22 managing broker for Miner Realty.

23 33. RESPONDENT advertised that she is the managing broker for Miner
24 Realty.

25 34. RESPONDENT's Broker, Kathryn Miner, failed to oversee and supervise the
26 RESPONDENT.

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2 **VIOLATIONS ALLEGED**

3 RESPONDENT has committed the following violations of law:

4 1. RESPONDENT violated NAC 645.610(1)(a) and/or NRS 645.605(1) for
5 advertising herself as the managing broker of Miner Realty, while she holds a broker-
6 salesperson license.

7 2. RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605(1) by
8 failing to protect her client and the public against unethical practices when she knowingly
9 opened a second escrow on the Property while it was already under contract.

10 3. RESPONDENT violated NRS 645.633(1)(i), pursuant to NAC 645.605(1), by
11 failing to protect the seller and the public, of the property in question against
12 misrepresentation when she knowingly prepared a Residential Offer and Acceptance
13 Agreement, with financial terms showing her client would pay cash for the Property,
14 when she knew her client in fact obtained two secured loans to finance the purchase.

15 4. RESPONDENT is in violation of NRS 645.633(1)(i) pursuant to NAC
16 645.605(6) for not dealing fairly with the listing agent for the property in question by
17 failing to communicate her client's intent to submit an offer to purchase the Property
18 while the property was listed as "Pending-no show" in the MLS.

19 5. RESPONDENT is in violation of NRS 645.633(1)(i), pursuant to NAC
20 645.605(11)(c), for falsely stating to a Division investigator, that she spoke with the
21 listing agent for the property in question, on the phone during the transaction, despite
22 RESPONDENT's prior testimony before the RSAR Ethics Hearing Panel that she did not
23 communicate with the listing agent throughout the transaction.

24 6. RESPONDENT violated NRS 645.633(1)(i), pursuant to NAC 645.605(11)(c),
25 for falsely stating to a Division investigator, that she informed her client his offer to
26 purchase the Property would need to be a backup offer, when in fact the RESPONDENT's
27 client stated that he learned from the seller that a first offer had already been accepted,
28 and RESPONDENT failed to identify her client's offer as a backup offer.

1 **NOTICE OF HEARING**

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

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

9 If the Governor's Emergency Directive 006 - suspending physical location
10 requirements - is extended through the date of the meeting, then the hearing will be held
11 via virtual meeting. The Commission uses WebEx for its meetings. To join the hearing go
12 to the Webex.com website and put in the Access code and Attendee ID:

13 **TUESDAY, SEPTEMBER 1, 2020** Meeting number (Access code): 146 276 8028
14 Password (Attendee ID): MgCrCbJq662 (64272257662 from phones and video systems)

15 **WEDNESDAY, SEPTEMBER 2, 2020** Meeting number (Access code): 146 650 1911
16 Password (Attendee ID): 2rGzteBYY24 (27498329924 from phones and video systems)

17 **THURSDAY, SEPTEMBER 3, 2020** Meeting number (Access code): 146 520 3582
18 Password (Attendee ID): umV3mJJ2gP2 (86836552472 from phones and video systems)

19 If you do not have internet access, you may attend by phone at 1-844-621-3956
20 using the access codes and attendee IDs listed above. Some mobile devices may ask
21 attendees to enter a numeric attendee ID provided above. If Emergency Directive 006 is
22 not extended and the meeting is held in person, then the meeting will be located at the
23 following locations:

24 Nevada State Business Center
25 Real Estate Division
26 3300 West Sahara Avenue, Suite 350
Las Vegas, NV 89102

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

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

10 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is
11 an open meeting under Nevada's Open Meeting Law (OML), and may be attended by the
12 public. After the evidence and arguments, the commission may conduct a closed meeting
13 to discuss your alleged misconduct or professional competence. You are entitled to a copy
14 of the transcript of the open and closed portions of the meeting, although you must pay for
15 the transcription.

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

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

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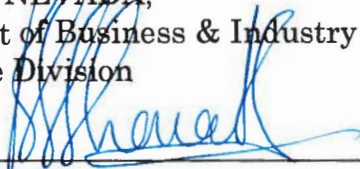
1 The purpose of the hearing is to determine if the RESPONDENT has violated NRS
2 645 and/or NAC 645 and if the allegations contained herein are substantially
3 proven by the evidence presented and to further determine what administrative penalty,
4 if any, is to be assessed against the RESPONDENT.

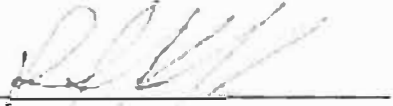
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6
7 DATED this 28 day of July, 2020.

DATED this 21st day of July, 2020.

8
9 STATE OF NEVADA,
10 Department of Business & Industry
11 Real Estate Division

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