BEFORE THE REAL ESTATE COMMISSION STATE OF NEVADA

GAIL J. ANDERSON, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA.

Petitioner,

VS.

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DAVID M. MARK,

Respondent.

Case No. RES 13-04-11-299



SEP 03 2014

REAL ESTATE COMMISSION

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Nevada Real Estate Commission, Department of Business and Industry, State of Nevada ("Commission") on December 11, 2013 at Grant Sawyer Building, 555 E. Washington Avenue, Room 4412, Las Vegas, Nevada 89101 ("Hearing"). Present were Commissioners David Boyer, Richard Johnson, Norma Jean Opatik, Sherrie Cartinella and Neil Schwartz. The Respondent, DAVID M. MARK ("RESPONDENT" or "MARK"), failed to appear at the Hearing, failed to file an Answer to the Complaint, and failed to request a continuance of the Hearing. Kimberly A. Arguello, Senior Deputy Attorney General appeared on behalf of Petitioner.

FINDINGS OF FACT

The Commission, based upon the evidence presented during the Hearing, finds that there is substantial evidence in the record to establish each of the following Findings of Fact:

- 1. Counsel for Petitioner made an offer of proof that RESPONDENT was given proper Notice of the Hearing.
- 2. Rebecca Hardin, Commission Coordinator for the Division, testified that the Complaint, Notice of Complaint and Notice of Documents were mailed via certified and regular mail more than 30 days prior to the Hearing to RESPONDENT at the last known address RESPONDENT provided to the Division.

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- 3. The Commission finds that proper notice of the hearing was given to RESPONDENT.
- 4. Pursuant to NAC 645.860, the Commission finds that the following facts specified in the Complaint are true.
- 5. DAVID M. MARK, at all relevant times, was licensed by the Division as a Salesperson under license number S.0072514 from June 2006 to September 2008. Thereafter, RESPONDENT was licensed by the Division as a Broker Salesperson under license number BS.0072514. RESPONDENT's license is currently expired.
- 6. MARK is subject to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC 645.
- 7. On April 11, 2013, MARK was found guilty in the United States District Court of the felonies of Conspiracy to Commit Bank Fraud, Mail Fraud and Wire Fraud, Title 18, United States Code, Sections 1344; two counts of Bank Fraud, Title 18, United States Code, Sections 1344 and 1342; and one count of Mail Fraud, Title 18, United States Code Sections 1341 and 1342.
- 8. The felonies that MARK has been found to be guilty of stem directly from acts done in his capacity as a licensed real estate salesperson committed between March 2006 to December 2007.
- 9. As part of the conspiracy, MARK obtained money and property by causing false information regarding straw buyers' employment, income and assets to be placed in the straw buyers' applications and supporting documentation to obtain mortgage loans from financial institutions to purchase residential real estate. Through these transactions MARK's coconspirators obtained control of approximately 227 properties and obtained money from financial institutions by causing the money from the mortgage loans to be diverted for their own use. The total purchase price of the properties was greater than \$107,000,000.
- 10. MARK solicited straw buyers and caused them to apply for mortgage loans containing materially false information for loans and mortgage payments that he knew they could not afford and did not intend to make.

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- 11. MARK made and caused offers to purchase properties above asking price and caused the sellers to agree that the excess funds be redirected to coconspirators under the pretense of making upgrades or repairs to the properties.
- To complete the straw buyers' transactions, MARK caused financial institutions. 12. escrow and title companies to transmit money and documents via US mail, interstate wire communications and interstate commercial carriers.
- 13. MARK knowingly and intentionally concealed from lenders and other parties to the transactions that third party disbursements were to coconspirators with an interest in the transactions.
- 14. MARK's coconspirators defaulted on mortgage payments, caused the properties to go into foreclosure and caused losses to financial institutions greater than \$20,000,000.
- 15. MARK was found guilty of defrauding AM Trust Bank regarding the sale of properties located at 3228 Dusty Daylight Court, Henderson, NV and 1729 Rolling Hills Drive. Las Vegas, NV.
- 16. MARK was found guilty of mail fraud regarding the sale of 2209 Santa Ynez Drive, Las Vegas NV by causing fraudulent documents to be sent via California Overnight from Nevada to Arizona.

CONCLUSIONS OF LAW

Based upon substantial evidence, the Commission hereby finds:

- 1. RESPONDENT was given proper notice of the Hearing pursuant to NRS Chapters 645 and 233B and NAC Chapter 645.
- 2. Pursuant to NAC 645.860, the Commission finds that the following violations of law specified in the Complaint are true and supported by substantial evidence.
- 3. MARK is in violation of FOUR counts of NRS 645.633(1)(d)(1) and (2) by being convicted of four felonies involving fraud, deceit, misrepresentation or moral turpitude which are also related to the practice of the licensee.

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ORDER

The Commission being fully apprised in the premises, and good cause appearing to the Commission, IT IS HEREBY ORDERED THAT:

- 1. The RESPONDENT shall pay to the Division a total fine of \$40,600.49. The total fine reflects a fine of \$40,000.00 for committing the above violations of law plus \$600.49 for hearing and investigative costs. Respondent shall pay the total fine to the Division within thirty (30) days of the effective date of this Order.
 - 2. RESPONDENT'S Brokers license number BS.0072514 is hereby **REVOKED**.
- 3. The Division may institute debt collection proceedings for failure to timely pay the total fine.
- 4. The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting or issuance of this Order.

This Order shall become effective on the _____ day of _____ 2014.

Dated this 26th day of AUGUST, 2014.

NEVADA REAL ESTATE COMMISSION

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