

NOV 13 2015

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

REAL ESTATE COMMISSION
Rena Aesch

JOSEPH R. DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Case No. RES 2015-2676

Petitioner,

vs.

COMPLAINT AND NOTICE OF HEARING

MARTY ZABIB,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("DIVISION"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Kimberly A. Arguello, Senior Deputy Attorney General, hereby notifies RESPONDENT MARTY ZABIB ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("COMMISSION") which 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 was at all relevant times mentioned in this Complaint licensed by the Division as a Broker under license number B.001012.LLC and is therefore subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

1. RESPONDENT, at the relevant times mentioned in this Complaint, was licensed as a Broker under license number B.001012.LLC and is currently active and subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 2. Ross Waguespack and Jamie Madden ("Complainants") worked for
2 RESPONDENT at Re/Max Winners.

3 3. They agreed to have RESPONDENT purchase investment property for them in
4 Florida.

5 4. The Complainants deposited \$150,000 to be used for the purchase into
6 RESPONDENT's personal Las Vegas branch Wells Fargo bank account.

7 5. Between October 2013 and January 2014, the Complainants entrusted a total of
8 \$215,000 to RESPONDENT for the purchase of the property.

9 6. In February 2014, the Complainants asked for the money back so the
10 Complainant could deposit it into an S&P stock account so that they would earn interest while
11 waiting for Zabib to find an investment property.

12 7. Despite Zabib's assurances, the money was never transferred.

13 8. Instead, on March 7, 2014, the Respondents associate, Kim Hildreth, informed
14 Complainants that a house was purchased with the funds.

15 9. In fact, this was a lie and a property was never purchased with the Complainants
16 funds.

17 10. Zabib admits that he unlawfully misappropriated the \$215,000 entrusted to him.

18 11. Complainants sued Zabib and received a judgement in the amount of \$215,000
19 plus \$25,000 in attorney's fees on August 24, 2015.

20 12. On September 21, 2015 the Division requested an affidavit response and
21 documents from Zabib via letter sent to his business address for Sun Valley Realty.

22 13. The letter was returned to the Division.

23 14. Division personnel went to the Sun Valley Realty location on October 16, 2015
24 and found it to be closed. The receptionist stated that Zabib moved months prior.

25 15. The letter requesting an affidavit response was mailed to Zabib's home address
26 and an email request was sent.

27 16. Zabib failed to provide an affidavit response or any requested documents.
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VIOLATIONS

RESPONDENT has committed the following violations of law:

17. RESPONDENT violated NRS 645.630(1)(a) by making material misrepresentations regarding the supposed purchase of the property.

18. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605 (6) by breaching his obligation of absolute fidelity to his principal's interest which is gross negligence and incompetence.

19. RESPONDENT violated NRS 645.630i(1)(h) by converting the money of others to his own use.

20. RESPONDENT violated NRS 645.633(1)(i) for the above conduct with constitutes deceitful, fraudulent or dishonest dealing.

21. RESPONDENT violated NRS 645.550 by failing to maintain a place of business within the State.

22. RESPONDENT violated NRS 645.570 by failing to notify the Division within 10 days of a change of business location.

23. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(11)(b) by failing to supply a written response to the Division.

24. RESPONDENT violated NRS 645.633 (1)(i) pursuant to NAC 645.605(11)(a) by failing to provide requested documents to the Division.

DISCIPLINE AUTHORIZED

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

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

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

NOTICE OF HEARING

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

6 **THE HEARING WILL TAKE PLACE** on December 16, 2015 commencing at 9:00
7 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day
8 thereafter commencing at 9:00 a.m. through December 17, 2015, or earlier if the
9 business of the Commission is concluded. The Commission meeting will be held on
10 December 16, 2015, at the Nevada Department of Employment Training and
11 Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, NV
12 89104. The meeting will continue on December 17, 2015, should business not be
13 concluded, starting at 9:00 a.m. at the Henderson City Hall, Council Chambers, 240
14 South Water Street, Henderson, Nevada 89015.

15 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the
16 same time as part of a regular meeting of the Commission that is expected to last from
17 December 16 through December 17, 2015, or earlier if the business of the Commission
18 is concluded. Thus, your hearing may be continued until later in the day or from day to
19 day. It is your responsibility to be present when your case is called. If you are not
20 present when your hearing is called, a default may be entered against you and the
21 Commission may decide the case as if all allegations in the complaint were true. If you
22 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
23 4074.

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

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

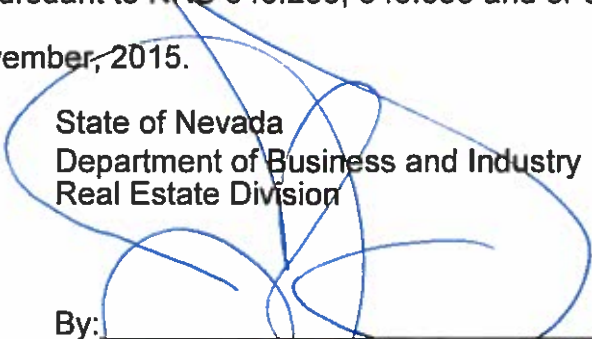
10 You have the right to request that the Commission issue subpoenas to compel
11 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you
12 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
13 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter
14 233B, and NAC 645.810 through 645.875.

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

5 DATED this 13TH day of November, 2015.

6 State of Nevada
7 Department of Business and Industry
8 Real Estate Division

9 By: 
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14 ADAM PAUL LAXALT
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