

FILED

BEFORE THE REAL ESTATE COMMISSION APR 05 2017

STATE OF NEVADA

REAL ESTATE COMMISSION  
BY *[Signature]*

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

Case No.: 2016-1936

Petitioner,

**DECISION:**  
**FINDINGS OF FACT AND**  
**CONCLUSIONS OF LAW**

vs.

R. JEFFREY LOWDEN,

Respondent.

Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717

This matter came on for hearing before the Nevada Real Estate Commission ("Commission"), State of Nevada, on Tuesday, March 14, 2017, at the 1919 College Parkway, Carson City, Nevada 89701. Respondent, R. Jeffrey Lowden ("Respondent") appeared in person at the hearing and was represented by his attorney SEAN BROHAWN, ESQ. Deputy Attorney General PETER K. KEEGAN appeared and prosecuted the Complaint on behalf of petitioner Sharath Chandra, Administrator of the Real Estate Division, Department of Business & Industry, State of Nevada ("Division").

The matter having been submitted for decision based upon the allegations of the Complaint, the Commission now enters its Findings of Fact and Conclusions of Law.

**JURISDICTION**

Respondent, at all relevant times mentioned in this Complaint, was licensed as a Broker, license number B.10062387.CORP, and as a Property Manager, license number PM.0165611.BKR, and therefore is subject to the jurisdiction of the Division and the provisions of NRS Chapter 645 and NAC Chapter 645.

**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           1.     Respondent has been licensed as a Broker, license number  
2 B.10062387.CORP, since August 16, 2004, and currently is in active status. Respondent  
3 has been licensed as a Property Manager, license number PM.0165611.BKR, since  
4 January 24, 2013, and currently is in active status.

5           2.     Respondent is currently employed with Sky West Real Estate Services, Inc.  
6 in Reno, Nevada. Respondent is the principal broker and president of Sky West Real  
7 Estate Services, Inc. ("Sky West").

8           3.     On or about April 11, 2016, the Division received a Complaint from Evelyn  
9 Palmer ("Complainant") against the Respondent claiming that he had advertised her  
10 property, located at 1210 & 1212 West First Street, Reno, Nevada 89503 (the "Property"),  
11 for sale outside of the specified time in the parties' Exclusive Representation Agreement.

12           4.     On or about May 17, 2016, the Division sent Respondent, via email, an  
13 Opening Letter, indicating that an investigation had commenced concerning the April 11,  
14 2016, Complaint and informed Respondent that a response was due to the Division by  
15 May 9, 2016.

16           5.     On or about May 17, 2016, Respondent informed the Division, via email, that  
17 a response would be forthcoming "within the next day or two."

18           6.     On or about June 22, 2016, the Division sent Respondent a follow-up email  
19 regarding his Respondent's response to the Opening Letter.

20           7.     On or about June 22, 2016, Respondent informed the Division that he was  
21 represented by Counsel, Sean L. Brohawn.

22           8.     On or about July 18, 2016, Respondent submitted his response Declaration  
23 and supporting exhibits, via email, to the Division.

24           9.     In paragraph 10 of Respondent's July 18, 2016, Declaration, he declared that  
25 "[w]e did not perform property management services for Ms. Palmer."

26           10.    On or about July 3, 2013, Respondent executed an agreement with  
27 Complainant which sets forth rental services provided by Sky West for the Property as  
28

1 well as payment terms therefore, but claims that Sky West currently was not the property  
2 manager.

3 11. On or about December 5, 2014, Complainant entered into a "Property  
4 Management Agreement" ("Management Agreement") with Sky West Real Estate  
5 Services for her Property, which Management Agreement was exclusive for a period of 12  
6 months. The December 5, 2014, Management Agreement was executed by Scott  
7 MacKenzie, an Agent of Sky West.

8 12. In paragraph 14 of Respondent's Declaration, he declared that "[w]e did not  
9 offer to sell Complainant's property for sale without authorization."

10 13. On or about September 3, 2014, Complainant entered into an "Exclusive  
11 Representation Agreement," ("Representation Agreement") with Sky West Real Estate  
12 Services, to market her Property for a period of 45 days. The Representation Agreement  
13 was executed by Scott MacKenzie, an Agent of Sky West, but was not executed by  
14 Responding, the supervising Broker.

15 14. The September 3, 2014, Exclusive Representation Agreement terminated on  
16 October 17, 2014.

17 15. On or about April 6, 2016, the website for Sky West did contain a sale listing  
18 for the Property reflecting Scot MacKenzie as the listing agent.

19 16. The November 22, 2016, Notice of Violation ordered Respondent, pursuant to  
20 NAC 645.695, to pay an administrative fine of \$1,000.00 to the Division for violations of  
21 NRS 645 and NAC 645.

22 17. The November 22, 2016, Notice of Violation was forwarded to Respondent's  
23 attorney's correct address on November 30, 2016.

24 18. On or about December 14, 2016, Respondent, through this attorney, Sean L.  
25 Brohawn, sent the Division, via certified mail, a notice of appeal of its Notice of Violation.

26 19. On or about December 28, 2016, the Division sent Respondent, via certified  
27 mail, an NRS 233B notice of intention to commence disciplinary action against him by  
28 filing a complaint and request for hearing with the Nevada Real Estate Commission for

1 violations of NRS 645.635(1) pursuant to NRS 645.630 and NRS 645.633(1)(h) pursuant  
2 to NAC 645.605(7).

3 **CONCLUSIONS OF LAW**

4 The Commission, based upon the preponderance of the evidence, makes the  
5 following legal conclusions:

6 20. Respondent violated NRS 645.630 pursuant to NRS 645.635(1) by offering  
7 Complainant's Property for sale on the Sky West website after the expiration of the  
8 September 3, 2014, Exclusive Representation Agreement and without the knowledge of  
9 the owner or the owner's authorized agent or on terms other than those authorized by the  
10 owner or the owner's authorized agent.

11 21. Respondent violated NRS 645.633(1)(h) pursuant to NAC 645.605(7) and  
12 NRS 645.320 by failing to ensure that his signature, as the Broker, was included on the  
13 September 3, 2014, Exclusive Representation Agreement wherein an agent of Sky West  
14 was the listing agent.

15 **ORDER**

16 IT IS HEREBY ORDERED, upon a unanimous vote, that Respondent shall pay to  
17 the Division a total fine of Two Thousand Six Hundred Sixty-Three and 38/100 Dollars  
18 (\$2,663.38). The total fine reflects a fine of One Thousand and No/100 Dollars (\$1,000.00)  
19 for committing the above violations of law, plus One Thousand Six Hundred Sixty-Three  
20 and 38/100 Dollars (\$1,663.38) for hearing and investigative costs. Respondent shall pay  
21 the total fine to the Division within one hundred eighty (180) days of the effective date of  
22 this Order. The Division may institute debt collection proceedings for failure to timely  
23 pay the total fine.


24 IT IS FURTHER ORDERED that Respondent shall complete nine (9) hours of live  
25 course continuing education, to include three (3) hours in each of the following areas:  
26 broker management, property management, and contracts. The nine (9) hours shall not  
27 be counted towards the Respondent's continuing education requirements and must be  
28 completed within one hundred eighty days (180) days of the effective date of this Order.

1 The Commission retains jurisdiction for correcting any errors that may have  
2 occurred in the drafting and issuance of this Decision.

3 This Order shall become effective on the 10<sup>th</sup> day of May, 2017.

4 REAL ESTATE DIVISION  
5 STATE OF NEVADA

6  
7 By:

  
Commissioner  
Nevada Real Estate Commission  
April 5, 2017