

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2016-2877

Petitioner,

vs.

DONALD JOSEPH MACLELLAN,

Respondent.

COMPLAINT AND NOTICE OF HEARING

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 Keith E. Kizer, Senior Deputy Attorney General, hereby notifies RESPONDENT DONALD JOSEPH MACLELLAN, ("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 as set forth in NRS 645.235 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, 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.

FACTUAL ALLEGATIONS

1. At all times relevant, RESPONDENT was not licensed by the Division in any capacity.
2. RESPONDENT is licensed with the California Bureau of Real Estate as a Salesperson, License No. 00897784.

1 3. At all times relevant, RESPONDENT was employed with Faris Lee Investments (“Faris
2 Lee”), in Irvine, California.

3 4. Faris Lee was previously credentialed with the Division on October 6, 2010, but
4 terminated its credentialing on January 12, 2016.

5 5. On or about July 1, 2016, RESPONDENT advertised himself, via Faris Lee’s website,
6 as one of the listing agents for a commercial property located at 120 S. Rainbow Blvd., in Las Vegas,
7 Nevada, despite not having a Nevada real estate license.

8 6. On or about July 5, 2016, the Division sent RESPONDENT, via certified mail, an
9 Investigation Opening Letter and a Cease & Desist Order. The Division’s Investigation Opening Letter
10 requested a response from RESPONDENT not later than July 20, 2016.

11 7. On or about August 3, 2016, the Division sent RESPONDENT, via certified mail, a
12 follow-up letter requesting a response to its July 5, 2016 Investigation Opening Letter and Cease &
13 Desist Order because none had yet been received.

14 8. On or about November 2, 2016, the Division sent RESPONDENT, via certified mail, an
15 NRS 233B notice of intention to commence disciplinary action against him by filing a complaint and
16 request for hearing with the Nevada Real Estate Commission for violations of NRS 645.230 and NRS
17 645.235.

18 9. As of the date of this Complaint, RESPONDENT has not responded to any of the
19 Division’s communications.

20 **VIOLATION**

21 RESPONDENT has committed the following violation of law:

22 10. RESPONDENT violated NRS 645.230(1)(a) and/or NRS 645.235(1)(a) by engaging in
23 the business of, acting in the capacity of, or advertising or assuming to act as a real estate broker, real
24 estate broker-salesperson, or real estate salesperson within the State of Nevada without first obtaining
25 the appropriate license from the Division.

26 **DISCIPLINE AUTHORIZED**

27 11. Pursuant to NRS 645.235, the Commission is empowered to impose an administrative
28 fine in an amount not to exceed the amount of gain or economic benefit that the person derived from

1 the violation or \$5,000, whichever amount is greater, against RESPONDENT for each violation of
2 NRS 645.235.

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

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

8 NOTICE OF HEARING

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

12 THE HEARING WILL TAKE PLACE on May 23, 2017 commencing at 9:00 a.m., or as
13 soon thereafter as the Commission is able to hear the matter, and each day thereafter
14 commencing at 9:00 a.m. through May 25, 2017, or earlier if the business of the Commission is
15 concluded. The Commission meeting will be held on May 23-25, 2017, at the Nevada State
16 Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102.

17 STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same
18 time as part of a regular meeting of the Commission that is expected to last from May 23-25,
19 2017, or earlier if the business of the Commission is concluded. Thus, your hearing may be
20 continued until later in the day or from day to day. It is your responsibility to be present when
21 your case is called. If you are not present when your hearing is called, a default may be entered
22 against you and the Commission may decide the case as if all allegations in the complaint were
23 true. If you have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
24 4074.

25 YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open
26 meeting under Nevada's Open Meeting Law, and may be attended by the public. After the evidence
27 and arguments, the Commission may conduct a closed meeting to discuss your alleged misconduct or
28 professional competence. A verbatim record will be made by a certified court reporter. You are

1 entitled to a copy of the transcript of the open and closed portions of the meeting, although you must
2 pay for the transcription.

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

9 You have the right to request that the Commission issue subpoenas to compel witnesses to
10 testify and/or evidence to be offered on your behalf. In making the request, you may be required to
11 demonstrate the relevance of the witnesses' testimony and/or evidence. Other important rights you
12 have are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through
13 645.920.

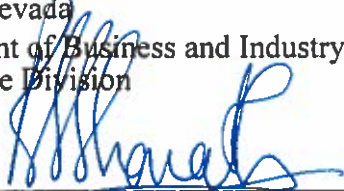
14 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or
15 NAC 645 and if the allegations contained herein are substantially proven by the evidence

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1 presented and to further determine what administrative penalty, if any, is to be assessed against the
2 Respondent, pursuant to NRS 645.235 and/or NRS 645.633.

3 DATED this 17 day of April, 2017.

4 State of Nevada
5 Department of Business and Industry
6 Real Estate Division

7 By: 
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12 ADAM PAUL LAXALT
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