

FILED

APR 18 2017

REAL ESTATE COMMISSION
BY *Ruben Alon*

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2015-1818

Petitioner,

vs.

DESIREE SWEET,

Respondent.

**ACTION FOR ORDER CONFIRMING ADMINISTRATIVE FINE
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 DESIREE SWEET ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The 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 NAC 645.695 and/or NRS 622.400.

POINTS AND AUTHORITIES

RESPONDENT was licensed as a salesperson, license number S.0029397, and as a property manager, permit number PM.0129397, until March 31, 2016. On or about June 10, 2016, the Administrator of the Real Estate Division issued RESPONDENT a Notice of Violation with the Imposition of Administrative Fine in the amount of \$1,000.00 for a violation of NRS 645.252(2) and NRS 645.633(1)(h), pursuant to NAC 645.605(6), for allowing the tenants of a property she was managing in early 2015 to have a dog reside therein in violation of the property management

1 agreement, and for refunding those tenants' security deposit on or about June 1, 2015, despite the
2 property having been left by them in an unacceptable condition. The Notice of Violation with
3 Imposition of Administrative Fine was properly served upon RESPONDENT. Exhibit A.

4 The Notice of Violation and accompanying letter from the Division advised that the fine must
5 be remitted to the Division by July 14, 2016. The Notice of Violation and accompanying letter
6 contained notice to the RESPONDENT advising RESPONDENT of her appeal rights if she disagreed
7 with the finding of violation and/or imposition of the fine. *Id.* RESPONDENT did not appeal and did
8 not request a hearing prior to July 14, 2016. As such, RESPONDENT was required to pay the fine
9 imposed in the amount of \$1,000.00 by the prescribed date of July 14, 2016.

10 RESPONDENT failed to pay the fine by July 14, 2016. To date, RESPONDENT has failed to
11 pay the administrative fine. The Division requests an order requiring the payment of the properly
12 imposed administrative fine.

13 NOTICE OF HEARING

14 PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider the
15 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
16 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

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

22 STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same
23 time as part of a regular meeting of the Commission that is expected to last from May 23-25,
24 2017, or earlier if the business of the Commission is concluded. Thus, your hearing may be
25 continued until later in the day or from day to day. It is your responsibility to be present when
26 your case is called. If you are not present when your hearing is called, a default may be entered
27 against you and the Commission may decide the case as if all allegations in the complaint were
28

1 true. If you have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-
2 4074.

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

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

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


19 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
20 645 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 is to be assessed against the
2 Respondent, if any, pursuant to NRS 645.235, 645.633 and or 645.630.

3 DATED this 17 day of April, 2017.

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

7 By: 
8 SHARATH CHANDRA, Administrator
9 2501 East Sahara Avenue
10 Las Vegas, Nevada 89104-4137
11 (702) 486-4033

12 ADAM PAUL LAXALT
13 Attorney General

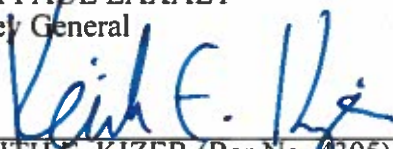
14 By: 
15 KEITH E. KIZER (Bar No. 0305)
16 Senior Deputy Attorney General
17 555 East Washington Ave., Ste. 3900
18 Las Vegas, Nevada 89101
19 (702) 486-3326
20 Attorneys for Real Estate Division
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EXHIBIT A

BRIAN SANDOVAL
Governor

STATE OF NEVADA



BRUCE H. BRESLOW
Director

JOSEPH (JD) DECKER
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

<http://red.nv.gov>

June 10, 2016

Desiree Sweet
2200 Tall Pine Drive
Las Vegas, NV 89108

Certified Mail No.: 7008 0150 0003 7637 6803

RE: BECK v SWEET
CASE NO. 2015-1818

Dear Ms. Sweet:

Enclosed you will find a Notice of Violation with Imposition of an Administrative Fine. The Division has found that you have violated the following NRS/NAC 645:

- NRS 645.252(2); and
- NRS 645.633(1)(h) pursuant to NAC 645.605(6).

Both violations are set out with specificity in Exhibit A attached hereto.

Pursuant to NAC 645.695, you are required to pay an administrative fine in the amount of \$1,000.00. The fine must be remitted to the Division by July 14, 2016.

PLEASE TAKE NOTICE that you have the right to appeal this Notice of Violation before the Real Estate Commission. If you wish to appeal this Notice of Violation, you must notify the Division within 30 days of the date of this letter. Please submit such notification to Mr. Jan R. Holle, Chief Compliance/Audit Investigator, at 2501 E. Sahara #300, Las Vegas, Nevada 89104-4137.

Please remit a check or money order made payable to the order of "Nevada Real Estate Division" for the full amount of the fine and submit to:

ASSISTANT TO THE ADMINISTRATOR
Nevada Real Estate Division
2501 E. Sahara Avenue, Suite 303
Las Vegas, NV 89104-4137

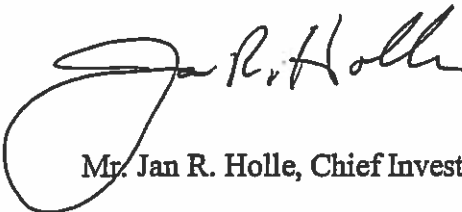
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There is an extra copy of this letter marked "Remittance Copy" and should be returned with your check. The purpose of the remittance copy is to assure proper posting of fines to your disciplinary file.

Desiree Sweet
Page 2
June 10, 2016

If you have any questions concerning this Notice, you may contact Investigator Joanne Gierer at (702) 486-2435.

Sincerely,



Mr. Jan R. Holle, Chief Investigator

cc: Joseph (JD) Decker, Administrator
Juan Martinez, Broker at the time of violations

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1 REAL ESTATE DIVISION
2 DEPARTMENT OF BUSINESS AND INDUSTRY
3 STATE OF NEVADA
4

5 SWEET, DESIREE

6 License Nos.: S.0029397 &
7 PM.0129397
8 Both Lic/Permit expired March
31, 2016

NOTICE OF VIOLATION
WITH
IMPOSITION OF ADMINISTRATIVE FINE

CASE No. 2015-1818

9
10 TO: Desiree Sweet
11 2200 Tall Pine Drive
Las Vegas, NV 89108

12 PLEASE TAKE NOTICE that as a result of an investigation, the Real Estate Division of the
13 Department of Business and Industry, State of Nevada ("the Division") finds that you have violated
14 the following Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) as set out
15 with specificity in Exhibit A attached hereto:

- | | | |
|----|---|-------------------|
| 16 | | |
| 17 | • NRS 645.252(2); and | \$ 500.00 |
| 18 | • NRS 645.633(1)(h) pursuant to NAC 645.605(6). | <u>\$ 500.00</u> |
| | TOTAL DUE | \$1,000.00 |

19
20 PLEASE TAKE FURTHER NOTICE that as a result of the above violation(s), you are
21 required to pay an administrative fine pursuant to NAC 645.695 in the amount of \$1,000.00. The
22 fine must be remitted to the Division on or before July 14, 2016. This Notice of Violation is
23 considered discipline and will be published and made available to the public upon request.

24 PLEASE TAKE FURTHER NOTICE that you have the right to appeal this Notice of
25 Violation before the Real Estate Commission. If you wish to file an appeal, you must submit a
26 written request within 30 days of the date of this Notice. Such notice may be mailed to:
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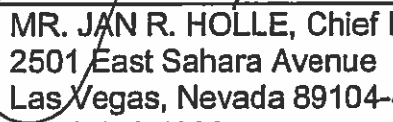
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1 Nevada Real Estate Division
2 Mr. Jan R. Holle, Chief Compliance/Audit Investigator
3 2501 E. Sahara Avenue, Suite 300
4 Las Vegas, NV 89104-4137

5 DATED this 14TH day of June, 2016.

6 JOSEPH (JD) DECKER, Administrator
7 REAL ESTATE DIVISION
8 DEPARTMENT OF BUSINESS & INDUSTRY
9 STATE OF NEVADA

10 By:

11 
12 MR. JAN R. HOLLE, Chief Investigator
13 2501 East Sahara Avenue
14 Las Vegas, Nevada 89104-4137
15 (702) 486-4033
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Exhibit A

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2 **Violation found:**

3 1. **NRS 645.252(2):**

4 **NRS 645.252 Duties of licensee acting as agent in real estate transaction.** A licensee who acts
5 as an agent in a real estate transaction:

- 6 2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

7 2. **NRS 645.633(1)(h) pursuant to NAC 645.605(6):**

8 **NRS 645.633 Additional grounds for disciplinary action: Improper trade practices; violations**
9 **of certain orders, agreements, laws and regulations; criminal offenses; other unprofessional and**
10 **improper conduct; reciprocal discipline; violations relating to property management; log of**
11 **complaints.**

12 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that
13 section who is guilty of any of the following acts:

14 (h) Gross negligence or incompetence in performing any act for which the person is required to
15 hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

16 **NAC 645.605(6) Considerations in determining certain misconduct by licensee. (NRS 645.050,**
17 **645.190, 645.633)** In determining whether a licensee has been guilty of gross negligence or
18 incompetence under paragraph (h) of subsection 1 of NRS 645.633 or conduct which constitutes
19 deceitful, fraudulent or dishonest dealing under paragraph (i) of that subsection, the Commission will
20 consider, among other things, whether the licensee:

21 6. Has breached his or her obligation of absolute fidelity to his or her principal's interest or his
22 or her obligation to deal fairly with all parties to a real estate transaction.

23 **Facts and Rationale for Finding:**

24 The Property Management Agreement specifically states that the tenant is not to have pets.
25 However, the tenants completed an application and fully disclosed the type and size of dog they
26 had. The Respondent approved their application with the Great Dane anyway.

27 The Complainant provided several clear photos of the property condition following tenant move
28 out. It is obvious that the property was not clean and in decent condition as the Respondent states in
her response. Given the property condition it would not be reasonable for the tenant to receive a
full security deposit refund.

The Respondent is in violation of NRS 645.252 2 when she allowed a 130lb Great Dane to reside in
the property without the permission of the property owner.

The Respondent is also in violation of NRS 645.633 1 (h) pursuant to NAC 645.605 6 when she
refunded a 100% of the tenant security deposit back to the tenant when the property was obviously
damaged and not cleaned by the tenant.

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RECOMMENDATION:

NAC 645.695 allows the Division to impose a total fine of \$1,000 for both of the above violations. Therefore, I recommend this disciplinary action for the Respondent.

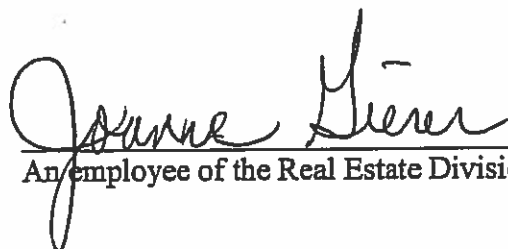
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Certificate of Service

I, Joanne Gierer, hereby certify that I am an employee of the Real Estate Division of the Department of Business and Industry, State of Nevada and that on the 14th day of June, 2016, I served a fully executed copy of the foregoing Notice of Violation and Imposition of Administrative Fine, by depositing a copy of the same with the United State Postal Service, postage prepaid, certified mail, return receipt requested addressed as follows:

Certified Mail Receipt No. 7008 0150 0003 7637 6803

Desiree Sweet
2200 Tall Pine Drive
Las Vegas, NV 89108


An employee of the Real Estate Division

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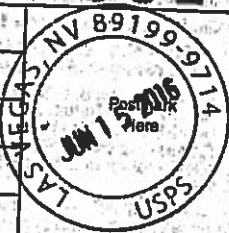
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Street, Apt. No.,
or PO Box No. 3200 Tall Pine Dr.
City, State, ZIP+4 NV NV 89108

PS Form 3800, August 2005

See Reverse for Instructions

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June 18, 2016 , 11:43 am	Notice Left (No Authorized Recipient Available)	LAS VEGAS, NV 89108
June 18, 2016 , 3:54 am	Departed USPS Facility	LAS VEGAS, NV 89189
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