

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. 2016-2130

Petitioner,

vs.

REDA MARIA GUDEN,

Respondent.

FILED

NOV 16 2018

REAL ESTATE COMMISSION

DECISION ON REHEARING

This matter came on for rehearing on Petitioner's Petition for Rehearing, dated October 9, 2017. The Nevada Real Estate Commission ("Commission") Commission granted Petitioner's Petition for Rehearing on December 5, 2017. The Decision of the Commission dated September 20, 2017, was stayed pending the Rehearing.

The rehearing took place on Tuesday, September 10, 2018, at the Nevada Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102. Respondent Reda Maria Guden ("Respondent") appeared without counsel. Peter K. Keegan, Deputy Attorney General, appeared on behalf of petitioner Sharath Chandra, Administrator of the Real Estate Division, and the 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 as follows:

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:

1. Respondent, at the relevant times mentioned in this Complaint, was licensed as a Broker under license number B.0046866.LLC and as a Property Manager under permit number PM.0163582.BKR, both of which are currently active.

1 2. At all times relevant to the Complaint, Respondent was the broker for American First
2 Realty LLC.

3 3. American First Realty LLC had an Operating Account, XXXXXX5702, at JP Morgan
4 Chase Bank ("Account 5702").

5 4. Respondent deposited client funds into Account 5702.

6 5. Respondent did not designate Account 5702 as a trust account.

7 6. American First Realty LLC had an Operating Account, XXXXXX8742, at Wells Fargo
8 Bank ("Account 8742").

9 7. Respondent deposited client funds into Account 8742.

10 8. Respondent did not designate Account 8742 as a trust account.

11 9. Respondent never submitted a trust account reconciliation report to the Division for
12 Account 8742.

13 10. Respondent used a rubber stamp to sign checks from Account 8742.

14 11. American First Realty LLC had an Operating Account, XXXXXX3028, at JP Morgan
15 Chase Bank ("Account 3082").

16 12. Respondent deposited client funds into Account 3082.

17 13. American First Realty LLC had an Operating Account, XXXXXX8303, at Bank of the
18 West ("Account 8303").

19 14. Respondent deposited client funds into Account 8303.

20 15. Respondent never specified Accounts 5702, 8742, 3082 and 8303 on Division Form
21 513.

22 16. Respondent deposited security deposits and client money into the same account,
23 Account 8303.

24 17. Between January 5 and July 19, 2016, Respondent made twenty separate transfers,
25 which totaled \$23,400.00, from Account 5072 into her personal account.

26 18. On or about February 11, 2016, Respondent withdrew \$7,000.00 from Account 5072.

27 19. In or around March 2016, approximately 54 properties that had been managed by
28 American First Realty LLC, through Respondent, were transferred to RE/MAX Central.

1 20. At that time, Respondent failed to remit rent or deposit money (approximately
2 \$14,670.00) belonging to fourteen different property accounts.

3 21. On or about March 25, 2016, Account 5072 went into overdraft status, resulting in a
4 \$34.00 fee charged by JP Morgan Chase Bank.

5 22. On or about June 24, 2016, Account 5072 went into overdraft status, resulting in a
6 \$34.00 fee charged by JP Morgan Chase Bank.

7 23. On or about June 24, 2016, a check in the amount of \$1,242.00 written from Account
8 5072 was returned due to the overdraft status.

9 24. On or about June 29, 2016, Account 5072 went into overdraft status, resulting in a
10 \$34.00 fee charged by JP Morgan Chase Bank.

11 25. On or about June 30, 2016, Respondent transferred \$54.00 from her personal account
12 into Account 5072.

13 26. On or about May 5, 2016, Davit Hakobyan filed a Statement of Fact with the Division,
14 complaining about Respondent's conduct.

15 27. On or about May 11, 2016, John Ahlbrand filed a Statement of Fact with the Division,
16 complaining about RESPONDENT's conduct.

17 28. By way of letter dated May 26, 2016, the Division required RESPONDENT to provide
18 additional information after the Division received her initial response to the Division's investigation.

19 29. Respondent failed to provide the additional information to the Division.

20 CONCLUSIONS OF LAW

21 The Commission, based upon the preponderance of the evidence, makes the following legal
22 conclusions:

23 30. Respondent received proper notice of the hearing pursuant to NRS Chapters 645 and
24 233B and NAC Chapter 645.

25 31. Pursuant to NAC 645.860, the Commission finds that the following charges specified in
26 the Complaint are true and supported by substantial evidence.

27 32. Respondent violated NRS 645.630(1)(f) *on six (6) occasions* by failing to account for
28 and remit funds within a reasonable time.

1 33. Respondent violated NRS 645.310(4) by failing to designate Account 5702 as a trust
2 account.

3 34. Respondent violated NRS 645.310(4) by failing to designate Account 8742 as a trust
4 account.

5 35. Respondent violated NRS 645.310(6) *on four occasions* by failing to notify the Division
6 of the names of the banks in which she maintained trust accounts and specify the names of the accounts
7 on forms provided by the Division.

8 36. Respondent violated NAC 645.655(8) by failing to maintain two separate property
9 management trust accounts distinct from any trust account that she had for other real estate
10 transactions.

11 37. Respondent violated NAC 645.655(5) by maintaining a custodial or trust account from
12 which money could be withdrawn without her signature.

13 38. Respondent violated NRS 645.630(1)(h) by transferring money from her personal
14 account into Account 5702.

15 39. Respondent violated NRS 645.630(1)(h) *on twenty occasions* by transferring money
16 from Account 5702 into her personal account.

17 40. Respondent violated NRS 645.630(1)(h) by withdrawing money from Account 5702 for
18 her personal use.

19 41. Respondent violated NRS 645.630(1)(h) *on three occasions* by allowing Account 5702
20 to go into overdraft status.

21 42. Respondent violated NRS 645.630(1)(h) by allowing a check written from Account
22 5702 to be returned for insufficient funds.

23 43. Respondent violated NRS 645.633(1)(i), pursuant to NAC 645.605(11)(a) and (b), by
24 failing to supply a written response to the Division.

25 44. Respondent violated NAC 645.655(9) by failing to submit a Trust Account
26 Reconciliation report for Account 8742.

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ORDER

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2 1. IT IS HEREBY ORDERED that Respondent shall pay to the Division a total fine of
3 \$421,674.32. The total fine reflects a fine of \$10,000.00 for committing each of the above 42
4 violations of law, plus \$1,674.32 for hearing/rehearing and investigative costs. Respondent shall pay
5 the total fine to the Division within ninety (90) days of the effective date of this Order. If the payment
6 is not actually received by the Division on or before its due date, it shall be construed as an event of
7 default by Respondent.

8 In the event of default, Respondent's licenses and permit shall be immediately suspended, and
9 the unpaid balance of the administrative fine and costs, together with any attorney's fees and costs that
10 may have been assessed, shall be due in full to the Division within ten calendar days of the date of
11 default. The Division may institute debt collection proceedings for failure to timely pay the total fine.

12 IT IS FURTHER ORDERED that Respondent's real estate license and permit are hereby
13 REVOKED.

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

16 This Order shall become effective on the 17 day of December, 2018.

17 DATED this 16 day of Nov., 2018.

18
19 REAL ESTATE COMMISSION
20 STATE OF NEVADA

21
22 By: 
23 President, Nevada Real Estate Commission