

1 BEFORE THE REAL ESTATE COMMISSION

2 STATE OF NEVADA

3 SHARATH CHANDRA, Administrator,  
4 REAL ESTATE DIVISION, DEPARTMENT  
5 OF BUSINESS & INDUSTRY,  
6 STATE OF NEVADA,

7 Petitioner,

8 vs.

9 DAVID E. HOWARD,

10 Respondent.

Case No. 2016-2527

**FILED**

DEC 07 2018

REAL ESTATE COMMISSION  
BY Emily Patten

11 **STIPULATION FOR SETTLEMENT OF DISCIPLINARY ACTION**

12 This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and  
13 between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"),  
14 through its Administrator Sharath Chandra ("Petitioner"); and David E. Howard ("RESPONDENT").

15 **JURISDICTION**

16 RESPONDENT engaged in activities which require a license as a real estate broker, real estate  
17 broker-salesperson, or real estate salesperson and is, therefore, subject to the jurisdiction of the Division  
18 and the Commission, and the provisions of NRS and NAC 645.

19 **FACTUAL ALLEGATIONS IN COMPLAINT**

20 1. At all times relevant to this Complaint, RESPONDENT was not licensed by the Division  
21 in any capacity.

22 2. At all times relevant to this Complaint, RESPONDENT was a principal with Lee &  
23 Associates Commercial Real Estate Services, NDSC, Inc. ("Lee North San Diego County"), holding a  
24 California Broker License No. 01189400.

25 3. RESPONDENT entered into, as broker, an exclusive listing agreement whereby Lee  
26 North San Diego County salespersons Ryan Barr ("BARR") and Ryan Bennett ("BENNETT")  
27 represented the owner (Gabriel Hagemann, Successor Trustee to the Francis Realty Inc. Profit Sharing  
28 Plan) under an exclusive listing agreement resulting in a February 29, 2016 sale of an O'Reilly's Auto  
Parts Store in Reno, Nevada.



1 **PROPOSED STIPULATION AGREEMENT**

2 I. In an effort to avoid the time and expense of litigating these issues before the Commission,  
3 the parties desire to compromise and settle the instant controversy upon the following terms and  
4 conditions:

5 a. RESPONDENT agrees to pay \$10,233.00 to the Division within sixty days of the date  
6 of the Commission's order approving this stipulation. The amount includes \$500.00  
7 to cover the Division's investigatory costs and attorney fees.

8 b. RESPONDENT agrees that he will not conduct any activity requiring a real estate  
9 license in Nevada until such time as he obtains a real estate license.

10 2. RESPONDENT and the Division agree that by entering into this Stipulation, the Division  
11 does not concede any defense or mitigation RESPONDENT may assert and that once this Stipulation is  
12 approved and fully performed, the Division will close its file in this matter. Nothing herein prevents proof  
13 and giving consideration to acts complained of in this matter in determining or penalizing a future  
14 violation by RESPONDENT of any provision of NRS Chapter 645 or NAC Chapter 645.

15 3. RESPONDENT agrees and understands that by entering into this Stipulation,  
16 RESPONDENT is waiving his right to a hearing at which RESPONDENT may present evidence in his  
17 defense, his right to a written decision on the merits of the complaint, his rights to reconsideration and/or  
18 rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada  
19 Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and  
20 accompanying regulations, and the federal and state Constitutions. RESPONDENT understands that this  
21 Agreement and other documentation may be subject to public records laws. The Commission members  
22 who review this matter for approval of this Stipulation may be the same members who ultimately hear,  
23 consider, and decide the Complaint if this Stipulation is either not approved by the Commission or is not  
24 timely performed by RESPONDENT.

25 4. Each party shall bear its or his own attorney's fees and costs.

26 5. Approval of Stipulation. Once executed, this Stipulation will be filed with the  
27 Commission and will be placed on the agenda for approval at its December 4-6, 2018, public meeting.  
28 The Division will recommend to the Commission approval of the Stipulation. RESPONDENT agrees

1 that the Commission may approve, reject, or suggest amendments to this Stipulation that must be  
2 accepted or rejected by RESPONDENT before any amendment is effective.

3       6. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests  
4 amendments unacceptable to RESPONDENT, RESPONDENT may withdraw from this Stipulation, and  
5 the Division may pursue its Complaint before the Commission. This Stipulation then shall become null  
6 and void and unenforceable in any manner against either party.

7       7. Release. In consideration of the execution of this Stipulation, RESPONDENT for himself,  
8 his heirs, executors, administrators, successors, and assigns, hereby releases, remises, and forever  
9 discharges the State of Nevada, the Department of Business and Industry, and the Division, and each of  
10 their respective members, agents, employees, and counsel in their individual and representative  
11 capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions,  
12 claims, and demands whatsoever, known and unknown, in law or equity, that RESPONDENT ever had,  
13 now has, may have, or claim to have against any or all of the persons or entities named in this section,  
14 arising out of or by reason of the Division's investigation, this disciplinary action, and all other matters  
15 relating thereto.

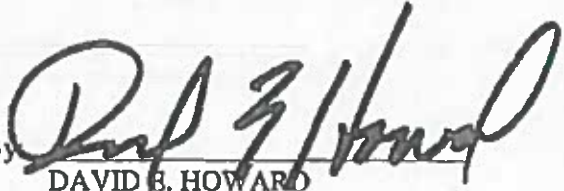
16       8. Indemnification. RESPONDENT hereby agrees to indemnify and hold harmless the State  
17 of Nevada, the Department of Business and Industry, the Division, and each of their respective members,  
18 agents, employees, and counsel, in their individual and representative capacities, against any and all  
19 claims, suits, and actions brought against said persons and/or entities by reason of the Division's  
20 investigation, this disciplinary action, and all other matters relating thereto, and against any and all  
21 expenses, damages, and costs, including court costs and attorney fees, which may be sustained by the  
22 persons and/or entities named in this section as a result of said claims, suits, and actions.

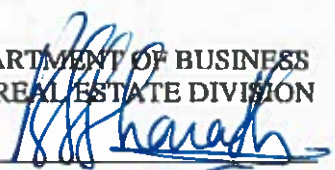
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1 9. RESPONDENT has signed and dated this Stipulation only after reading and  
2 understanding all terms herein.

3 10.  
4 DATED this 30 day of November, 2018

DATED this 3 day of DECEMBER ~~November~~, 2018.

5  
6 By:   
7 DAVID E. HOWARD

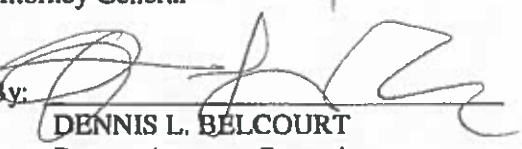
NEVADA DEPARTMENT OF BUSINESS  
& INDUSTRY, REAL ESTATE DIVISION  
By:   
SHARATH CHANDRA  
Administrator


9  
10 Approved as to form:

Approved as to form:

11 ADAM PAUL LAXALT  
12 Attorney General

NEWMAYER & DILLION LLP

13 By:   
14 DENNIS L. BELCOURT  
15 Deputy Attorney General  
16 555 E. Washington Avenue, Suite 3900  
17 Las Vegas, NV 89101  
18 Attorney for the Real Estate Division

By:   
19 CASEY J. QUINN  
20 3800 Howard Hughes Parkway, Suite 700  
21 Las Vegas, NV 89169  
22 Attorney for Respondent

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REAL ESTATE DIVISION, DEPARTMENT  
OF BUSINESS & INDUSTRY,  
STATE OF NEVADA,

Case No. 2016-2527

Petitioner,

vs.

DAVID E. HOWARD,

Respondent.

ORDER APPROVING STIPULATION

The Stipulation for Settlement of Disciplinary Action having come before the Real Estate Commission, Department of Business and Industry, State of Nevada, during its regular agenda on December 4, 2018, and the Commission being fully apprised of terms and good cause appearing,

IT IS ORDERED that the Stipulation for Settlement of Disciplinary Action in this matter is approved in full.

This Order shall become effective on the 9<sup>th</sup> day of January, 2018.

Dated this 10<sup>th</sup> day of December, 2018.

NEVADA REAL ESTATE COMMISSION

By: 

[Print Name] Lee Barrett

Commission President