

FILED

MAY 09 2018

REAL ESTATE COMMISSION

Sharath Chandra

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Case No. 2016-3017

Petitioner,

vs.

TOD A. WEVER,

Respondent.

ORDER OF APPROVAL OF SETTLEMENT

This matter came on for hearing before the Nevada Real Estate Commission, State of Nevada ("Commission") on Tuesday, March 20, 2018, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada. Respondent Tod A. Wever ("RESPONDENT") appeared and was represented by Aaron D. Shipley, Esq. Donald J. Bordelove, Deputy Attorney General, appeared on behalf of petitioner Sharath Chandra, Administrator of the Real Estate Division, Department of Business and Industry, State of Nevada ("Division"). The parties entered into a settlement which was thereafter modified by the Commission, accepted by the parties, and approved by the Commission.

JURISDICTION

RESPONDENT acknowledged that he is subject to Nevada Revised Statutes ("NRS") Chapter 645 and Nevada Administrative Code ("NAC") Chapter 645 and to the jurisdiction of the Division and the Commission.

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN COMPLAINT

1. Rex F. Henriott ("Henriott") was the broker for Henriott Real Estate Services, LLC.
2. On or about July 12, 2016, Henriott's real estate licenses and property management permit were revoked by the Commission for converting the money of others to his own use as well as ordered to pay to the Division a total amount of \$251,348.04.

1 3. On or about April 27, 2015, RESPONDENT received a letter from JD Evans, Esq. on
2 behalf of Henriott notifying RESPONDENT that Henriott was resigning as his broker, and
3 RESPONDENT would need to obtain a new broker.

4 4. RESPONDENT indicated that as of May 28, 2015, he “became the new broker to replace
5 Rex Henriott of Henriott Real Estate Services, LLC” and formed a new brokerage named Real
6 Management of Las Vegas, LLC (“RPMLV”).

7 5. On or about September 11, 2015, RESPONDENT filed a Statement of Fact with the
8 Division, complaining about Henriott allegedly stealing monies from the brokerage trust account.

9 6. On or about July 18, 2016, Scott Troelsen (“Troelsen”) filed a Statement of Fact with the
10 Division, complaining of RESPONDENT’s conduct as further detailed below.

11 7. Troelsen indicated that he originally hired RPMLV to manage his properties in Las Vegas,
12 NV as he was currently living in New York.

13 **Bushnell Drive Unit**

14 8. Troelsen’s first contact and knowledge of RESPONDENT was when the washing machine
15 in the Bushnell unit broke.

16 9. On or about February 27, 2015, Troelsen was charged \$300.00 to repair the machine.

17 10. On or about March 10, 2014, Troelsen was charged an additional \$215.00 to allegedly
18 replace a bearing on the machine.

19 11. Troelsen was only contacted by RPMLV after RPMLV charged this initial \$515.00 to
20 inform Troelsen that the repair cost would be higher.

21 12. RESPONDENT contacted Troelsen stating he was the owner of RPMLV and informed
22 Troelsen that he must make a decision within 24 hours.

23 13. Troelsen then contacted the tenant to inquire about the size of the washer/dryer as it has
24 been replaced just 3 years prior.

25 14. The tenant then informed Troelsen that the washing machine had been removed from the
26 premises.

27 15. RESPONDENT indicated that he was unaware that the machine had been removed and did
28 not know why it had been.

1 16. As such, in addition to the \$515.00 charged to Troelsen, Troelsen paid an addition
2 \$1,359.83 for a new unit.

3 17. Troelsen did not have a clear understanding of the situation as he was charged for the
4 repairs, repairs that were not made, and the machine went missing.

5 18. RESPONDENT indicated that the \$515 charge was an "accounting error" or "billing
6 error", \$300 was the correct charge, and \$215 was refunded to Troelsen.

7 19. Initially, RPMLV never actually refunded said \$215 to Troelsen, instead claiming the
8 money would be used to offset other expenses allegedly owed to RPMLV.

9 **Flamingo Road Property**

10 20. On behalf of Troelsen, RESPONDENT managed a property located at 8375 W. Flamingo
11 Road, Suite 100, Las Vegas, Nevada ("Flamingo Road Property").

12 21. In or about June 2015, Troelsen retired and decided to manage his Las Vegas properties.

13 22. Troelsen requested RPMLV to give the tenant notice for the Flamingo Road Property so
14 his mother could move in.

15 23. Upon the tenant's move out of the Flamingo Road Property, Mike Mangarsarian from
16 RPMLV performed a final inspection and determined deductions from the security deposit.

17 24. The inspection noted several potential deductions, and RPMLV asked Troelsen whether
18 he wanted to make those deductions.

19 25. Troelsen was eventually informed that the tenant's security deposit was stolen by Henriott
20 (only after Troelsen gave notice to terminate RPMLV's management, as further detailed below, upon
21 requesting Troelsen to sign a Release of Security Deposit for the Bushnell Drive Unit).

22 26. Troelsen (nor the tenant) was informed of the theft at the time of the deductions request
23 despite RESPONDENT's knowledge of such.

24 27. RPMLV charges Troelsen \$55/quarter to visit properties and make sure the tenant was
25 keeping the property in good condition.

26 28. Troelsen informed the Division that he was "disturbed by the condition of the apartment"
27 as RPMLV charges him these fees and never informed him of any conditions within the unit.
28

1 29. On or about October 11, 2016, Ellen Baylon ("Baylon") filed a Statement of Fact with the
2 Division complaining of RESPONDENT's conduct, specifically that her security deposit was not
3 returned 30 days after her August 31, 2016 move out date for the Flamingo Road Property.

4 30. Baylon indicated on September 28, 2016, she received a letter from RPMLV indicated
5 that Henriott stole these funds.

6 31. RESPONDENT informed Baylon to send a letter to small claims court.

7 **Respondent's Subsequent Conduct**

8 32. On or about April 5, 2016, Troelsen gave notice to RPMLV that he no longer wanted them
9 managing his properties.

10 33. On or about April 11, 2016, RPMLV informed Troelsen that the transition would take
11 roughly 30 days to complete.

12 34. As such, by early May (on or about May 4, 2016) the termination would be complete and
13 any funds due and owing would be returned.

14 35. RPMLV also informed Troelsen that "final papers" would need to be signed.

15 36. RPMLV presented Troelsen with a "Release of Security Deposit" form which purported
16 to make Troelsen responsible for returning the security deposit to the tenant in the Bushnell Drive Unit.

17 37. It was only at this time that RESPONDENT contacted Troelsen and informed him that the
18 security deposit had been stolen by Henriott.

19 38. RESPONDENT informed Troelsen that the Division had told him not to tell the tenants
20 of the theft.

21 39. Troelsen indicated that he found it difficult to believe that RESPONDENT was told not
22 to inform of the theft.

23 40. Troelsen further indicated that RESPONDENT never informed Troelsen initially that
24 RESPONDENT was the new owner of the management company.

25 41. As such, Troelsen contacted the Division and was told that they could not believe
26 RESPONDENT informed Troelsen to hide the theft and recommended that Troelsen immediately start
27 the recovery process, as well as sent Troelsen the appropriate information to do so.

1 42. On or about May 18, 2016, RESPONDENT offered to give Troelsen back the security
2 deposit for the Bushnell Drive Unit if Troelsen gave RESPONDENT a 5 star review.

3 43. On or about May 27, 2016, Troelsen refused to do so.

4 44. Yelp.com advises not to “ever offer ... payment in exchange for reviews – it will turn off
5 savvy customers, and may also be illegal. Yelp has a Consumer Alters program to let people know about
6 businesses that engage in this sort of activity.”

7 45. RESPONDENT also presented Troelsen with a “Release of Security Deposit” for
8 Flamingo Property, as RESPONDENT did for the Bushnell Drive Unit.

9 46. On or about April 5, 2016, when Troelsen gave notice to RPMLV that he no longer wanted
10 them managing his properties, he also indicated that RPMLV notify the tenant in Bushnell Drive Unit of
11 such, that the May rent payment should be sent to Troelsen, and that all items related to the Unit should
12 be sent to Troelsen (such as keys, leases, and the security deposit).

13 47. RPMLV failed to do as Troelsen requested in a timely manner including notifying the
14 tenant or informing the tenant where to send the rental payments.

15 48. Finally, Troelsen was charged by RPMLV, on or about May 20, 2016, for a \$165.00
16 “spring A/C tune up” after RPMLV had been terminated.

17 49. Troelsen did not authorize this subsequent charge after termination.

18 **SUMMARY OF VIOLATIONS OF LAW ALLEGED IN COMPLAINT**

19 1. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
20 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
21 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC 645.605(1)
22 by not doing his utmost to protect the public against fraud, misrepresentation or unethical practices related
23 to real estate, including by attempting to buy positive reviews from Complainant in exchange for return
24 of the stolen security deposit.

25 2. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
26 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
27 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC 645.605(6)
28 by breaching his obligation of absolute fidelity to his principal’s interest, including RESPONDENT’s

1 actions, knowledge, and/or charges related to the repairs at the Bushnell Drive Unit.

2 3. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
3 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
4 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC 645.605(6)
5 by breaching his obligation of absolute fidelity to his principal's interest, including improperly charging
6 Complainant for quarterly inspections and/or failing to inform Complainant of conditions within the
7 Flamingo Road Property.

8 4. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
9 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
10 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC 645.605(6)
11 by breaching his obligation of absolute fidelity to his principal's interest, including failing to timely
12 inform the tenant in the Bushnell Drive Unit that RESPONDENT was no longer managing said Unit.

13 5. RESPONDENT violated NRS 645.633(1)(h) by acting with gross negligence or
14 incompetence and/or NRS 645.633(1)(i) by conduct which constituted deceitful or dishonest dealing in
15 performing any act for which RESPONDENT is required to hold a license, pursuant to NAC 645.605(6)
16 by breaching his obligation of absolute fidelity to his principal's interest, including improperly charging
17 Complainant for a "spring A/C tune up" after RPMLV had been terminated.

18 6. RESPONDENT violated NRS 645.252(1)(a) and (2) by failing to disclose as soon as
19 practicable any material and relevant facts or information which the licensee knows, or which by the
20 exercise of reasonable diligence should have known, including failing to notify the tenant and/or owner
21 at the time of RESPONDENT's knowledge of Henriott's theft.

22 **SETTLEMENT**

23 1. The Division was prepared to present its case based upon the Complaint filed with the
24 Commission. On December 18, 2017, RESPONDENT filed an Answer with the Division responding to
25 all the allegations set forth in the Complaint and was prepared to defend against the same at the hearing
26 in this matter.

27 2. The Parties desired to compromise and settle the instant controversy upon the following
28 terms and conditions:

1 3. RESPONDENT agreed to pay a total of \$7,500 (\$6,480.99 as an administrative fine and
2 \$1,019.01 in investigative costs) to the Division due with \$2,500 due within 30 days of the effective date
3 of this Order. Thereafter, Respondent shall pay the remaining balance of \$5,000 within 2 years of the
4 effective date of this Order. No grace period is permitted. Any payment not actually received by the
5 Division on or before its due date shall be construed as an event of default by RESPONDENT.

6 4. In the event of default, RESPONDENT agreed that the unpaid balance, together with any
7 attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten
8 calendar days of the date of default. Debt collection actions for unpaid monetary assessments in this case
9 may be instituted by the Division.

10 5. RESPONDENT further agreed that if RESPONDENT fails to make a payment, his real
11 estate license(s) and property management permit are automatically suspended until the failed payment(s)
12 are made.

13 6. RESPONDENT further agreed to attend 6 hours of property management, 6 hours of
14 broker management, and 6 hours of ethics to be completed within 6 months of the effective date of this
15 Order. The hours will not count towards RESPONDENT'S continuing education requirements.

16 7. By entering into this agreement, RESPONDENT does not admit to any intentional or
17 unethical behavior. Because the agreement was reached prior to any presentation of evidence, the
18 allegations set forth in the Complaint were not proven or established to be true.

19 8. The Division agreed not to pursue any other or greater remedies or fines in connection
20 with RESPONDENT's conduct referenced herein.

21 9. RESPONDENT agreed and understood that by entering into the settlement,
22 RESPONDENT waived the right to a hearing at which RESPONDENT may have presented evidence in
23 defense, right to a written decision on the merits of the complaint, rights to reconsideration and/or
24 rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada
25 Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and
26 accompanying regulations, and the federal and state constitutions. RESPONDENT understands that this
27 Agreement and other documentation may be subject to public records laws. The Commission members
28 who reviewed this matter for approval of this Stipulation may be the same members who ultimately hear,

1 consider and decide the Complaint if this Stipulation is not timely performed by RESPONDENT.
2 RESPONDENT fully understands that RESPONDENT has the right to be represented by legal counsel
3 in this matter at his own expense.

4 **ORDER APPROVING SETTLEMENT**

5 The Settlement of Disciplinary Action having come before the Real Estate Commission,
6 Department of Business and Industry, State of Nevada, during its regular agenda on March 20, 2018, and
7 the Commission being fully apprised in the premises, and good cause appearing,

8 IT IS ORDERED that the above Settlement modified at the hearing is approved in full.

9 IT IS HEREBY ORDERED that RESPONDENT shall pay to the Division a total fine of \$7,500.
10 Respondent shall pay \$2,500 to the Division within thirty (30) days of the effective date of this Order.
11 Thereafter, Respondent shall pay the remaining balance of \$5,000 within 2 years of the effective date of
12 this Order. The Division may institute debt collection proceedings for failure to timely pay the total fine.
13 RESPONDENT shall attend 6 hours of property management, 6 hours of broker management, and 6
14 hours of ethics to be completed within 6 months of the effective date of this Order. The hours will not
15 count towards RESPONDENT'S continuing education requirements. The Commission retains
16 jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this Order of
17 Approval.

18 This Order shall become effective on the 10th day of June, 2018.

19 Dated this 7th day of May, 2018.

20 REAL ESTATE COMMISSION
21 STATE OF NEVADA

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23 By: 
24 President, Nevada Real Estate Commission

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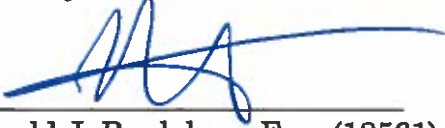
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1 Approved as to form:

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3 DATED: April 12, 2018

4 ADAM PAUL LAXALT
5 Attorney General

6 

7 Donald J. Bordelove, Esq. (12561)
8 555 E. Washington Ave., #3900
9 Las Vegas, NV 89101
Attorneys for the Division

DATED: April 19, 2018

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