

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 EDWARD OTOCKA,

10 Respondent.

Case No. 2016-2904

FILED

FEB 15 2018

REAL ESTATE COMMISSION
Robin Hall

11 **COMPLAINT AND NOTICE OF HEARING**

12 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY
13 OF THE STATE OF NEVADA ("Division"), by and through its counsel, Adam Paul Laxalt, Attorney
14 General of the State of Nevada, and Keith E. Kizer, Senior Deputy Attorney General, hereby notifies
15 RESPONDENT EDWARD OTOCKA ("RESPONDENT") of an administrative hearing before the
16 STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held
17 pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645
18 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations
19 stated below and to determine if RESPONDENT should be subject to an administrative penalty as set
20 forth in NRS 645.235 and/or NRS 622.400, and the discipline to be imposed, if a violation of law is
21 proven.

22 **JURISDICTION**

23 RESPONDENT engaged in activities which require a license as a real estate broker, real estate
24 broker-salesperson, or real estate salesperson, issued by the Division and is, therefore, subject to the
25 jurisdiction of the Division and the Commission, and the provisions of NRS and NAC 645.

26 **FACTUAL ALLEGATIONS**

- 27 1. RESPONDENT has never been licensed by the Division in any capacity.
28 2. RESPONDENT has never held a Cooperative Certificate from the Division.

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1 3. At all times relevant to this Complaint, RESPONDENT was affiliated with Marcus &
2 Millichap Real Estate Investment Services Inc. (“M&M”) in New York, New York, and was licensed
3 by New York State as a Salesperson, License No. 10401232117.

4 4. Gaurab Reja (“Reja”) holds no broker, broker-salesperson or salesperson license issued
5 by the Division.

6 5. At all times relevant to this Complaint, Reja was affiliated with M&M in New York,
7 New York, and was licensed by New York State as a Salesperson, License No. 10401283734.

8 6. Glen D. Kunofsky (“Kunofsky”) holds no broker, broker-salesperson or salesperson
9 license issued by the Division.

10 7. At all times relevant to this Complaint, Kunofsky was affiliated with M&M in New
11 York, New York, and was licensed by New York State as an Associate Broker, License No.
12 10301203289.

13 8. On or about February 23, 2016, RESPONDENT and Kunofsky signed an
14 “INTERSTATE BROKERAGE COOPERATION AGREEMENT – TURF STATE” regarding the sale
15 and marketing of a commercial property located at **2341 Comstock Drive, Las Vegas, Nevada**
16 (“Academy of Excellence”).

17 9. That agreement provides that “NO OUT-OF-STATE AGENT INFORMATION
18 SHALL BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS.” (Emphasis in
19 original.)

20 10. On or about February 23, 2016, RESPONDENT signed a Representation Agreement
21 (Exclusive Right to Sell or Exchange), which included Academy of Excellence.

22 11. Advertising for the offering for sale of Academy of Excellence stated it was being listed
23 by RESPONDENT, Kunofsky and Reja for \$16,708,330.00.

24 12. On or about July 6, 2016, the Division sent RESPONDENT a Cease & Desist Order.

25 13. On or about July 6, 2016, the Division sent Reja a Cease & Desist Order.

26 14. On or about July 6, 2016, the Division sent Kunofsky a Cease & Desist Order.

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1 **VIOLATION**

2 15. RESPONDENT violated NRS 645.230(1)(a) and/or NRS 645.235(1)(a) by engaging in
3 the business of, acting in the capacity of, or advertising or assuming to act as a real estate broker, real
4 estate broker-salesperson, or real estate salesperson within the State of Nevada without first obtaining
5 the appropriate license or certificate from the Division.

6 **DISCIPLINE AUTHORIZED**

7 16. Pursuant to NRS 645.235, the Commission is empowered to impose an administrative
8 fine in an amount not to exceed the amount of gain or economic benefit that the person derived from
9 the violation or \$5,000, whichever amount is greater, against RESPONDENT for each violation of
10 NRS 645.235.

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

14 18. Therefore, the Division requests that the Commission take such disciplinary action as it
15 deems appropriate under the circumstances.

16 **NOTICE OF HEARING**

17 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
18 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
19 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

20 **THE HEARING WILL TAKE PLACE** on March 20, 2018, commencing at 9:00 a.m., or
21 as soon thereafter as the Commission is able to hear the matter, and each day thereafter
22 commencing at 9:00 a.m. through March 22, 2018, or earlier if the business of the Commission is
23 concluded. The Commission meeting will be held on March 20, 2018, at the Nevada State
24 Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada
25 89102. The meeting will continue on March 21, 2018 at the Nevada State Business Center, 3300
26 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00
27 a.m., and on March 22, 2018, should business not be concluded, starting at 9:00 a.m. at the

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1 Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas,
2 Nevada 89102.

3 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same
4 time as part of a regular meeting of the Commission that is expected to last from March 20
5 through March 22, 2018, or earlier if the business of the Commission is concluded. Thus, your
6 hearing may be continued until later in the day or from day to day. It is your responsibility to be
7 present when your case is called. If you are not present when your hearing is called, a default
8 may be entered against you and the Commission may decide the case as if all allegations in the
9 complaint were true. If you have any questions please call Rebecca Hardin, Commission
10 Coordinator (702) 486-4074.

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

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


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

27 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
28 645 and if the allegations contained herein are substantially proven by the evidence presented and to


1 further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
2 pursuant to NRS 645.235, 645.633 and or 645.630.

3 DATED this 15 day of February, 2018.

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

7 By: 
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9 3300 W. Sahara Avenue, Suite 350
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11 (702) 486-4033

12 ADAM PAUL LAXALT
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