

FILED

BEFORE THE REAL ESTATE COMMISSION

MAY 07 2018

STATE OF NEVADA

REAL ESTATE COMMISSION  
BY *Robert [Signature]*

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

Case No. 2016-1466

Petitioner,

vs.

PERRY A. WHITE,

Respondent.

**AMENDED COMPLAINT 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 amends its Complaint and notifies RESPONDENT PERRY A. WHITE ("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 RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.235, NRS 645.633, NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

**JURISDICTION**

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker by the Division under license number B.0034578.CORP, and is therefore subject to the jurisdiction of the Commission and the Division, and the provisions of NRS Chapter 645 and NAC Chapter 645.

**FACTUAL ALLEGATIONS**

1. RESPONDENT was licensed as a Broker by the Division under license number B.0034578.CORP, until November 7, 2016. That license, which was first issued in or about 1994, is currently in inactive status.

1           2.       RESPONDENT is licensed by the Division as a Broker Salesperson under license  
2 number BS.0034578, and is currently in active status.

3           3.       At all times relevant to this Complaint, RESPONDENT was the broker for Marcus &  
4 Millichap Real Estate Investment Services of Nevada, Inc. ("Marcus & Millichap").

5           4.       Glen D. Kunofsky ("Kunofsky") holds no broker, broker-salesperson or salesperson  
6 license issued by the Division.

7           5.       At all times relevant to this Complaint, Kunofsky was affiliated with Marcus &  
8 Millichap Real Estate Investment Services Inc. ("M&M") in New York, New York, and was licensed  
9 by New York State as an Associate Broker, License No. 10301203289.

10          6.       Gaurab Reja ("Reja") holds no broker, broker-salesperson or salesperson license issued  
11 by the Division.

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

14          8.       Edward Otocka ("Otocka") holds no broker, broker-salesperson or salesperson license  
15 issued by the Division.

16          9.       At all times relevant to this Complaint, Otocka was affiliated with M&M in New York,  
17 New York, and was licensed by New York State as a Salesperson, License No. 10401232117.

18          10.       Anthony D. D'Ambrosia ("D'Ambrosia") holds no broker, broker-salesperson or  
19 salesperson license issued by the Division.

20          11.       At all times relevant to this Complaint, D'Ambrosia was affiliated with M&M in New  
21 York, New York, and was licensed by New York State as a Salesperson, License No. 10401263344.

22          12.       James E. Ventura ("Ventura") holds no broker, broker-salesperson or salesperson license  
23 issued by the Division.

24          13.       At all times relevant to this Complaint, Ventura was affiliated with M&M in New York,  
25 New York, and was licensed by New York State as an Associate Broker, License No. 10301207395.

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1 **2341 Comstock Drive, Las Vegas, Nevada**

2 14. On or about February 23, 2016, RESPONDENT signed a Representation Agreement for  
3 the sale of real property located at 2341 Comstock Drive, Las Vegas, Nevada (“Academy of  
4 Excellence”).

5 15. That Representation Agreement lists, and is signed by, Otocka as the Agent for the seller  
6 of Academy of Excellence.

7 16. On a Duties Owed by a Nevada Real Estate Licensee form dated February 23, 2016,  
8 RESPONDENT is listed as the Broker for the seller of Academy of Excellence.

9 17. That Duties Owed form provides that RESPONDENT shall abide “by all other duties,  
10 responsibilities and obligations required of the licensee in law or regulations.”

11 18. The seller’s name is not listed on that Duties Owed form.

12 19. On a Consent to Act form dated February 23, 2016, RESPONDENT is listed as the  
13 Broker for the seller of Academy of Excellence.

14 20. On or about February 23, 2016, RESPONDENT entered into an “INTERSTATE  
15 BROKERAGE COOPERATION AGREEMENT – TURF STATE” with Kunofsky and Otocka  
16 regarding the sale and marketing of the Academy of Excellence.

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

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

22 **2020 Reno Highway, Fallon, Nevada**

23 23. On or about May 19, 2016, RESPONDENT signed an “INTERSTATE BROKERAGE  
24 COOPERATION AGREEMENT – TURF STATE” regarding the sale and marketing of real property  
25 located at 2020 Reno Highway, Fallon, Nevada (“Walgreens”).

26 24. That agreement provides that “NO OUT-OF-STATE AGENT INFORMATION  
27 SHALL BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS.” (Emphasis in  
28 original.)

1           25.    On a Duties Owed by a Nevada Real Estate Licensee form dated June 1, 2016,  
2 RESPONDENT is listed as the Broker for the seller of Walgreens.

3           26.    That Duties Owed form provides that RESPONDENT shall abide “by all other duties,  
4 responsibilities and obligations required of the licensee in law or regulations.

5           27.    On a Consent to Act form dated June 1, 2016, RESPONDENT is listed as the Broker for  
6 the seller of Walgreens.

7           28.    Advertising for the offering for sale of Walgreens stated it was being listed by  
8 Kunofsky, Ventura and D’Ambrosia for \$5,217,391.00.

9           29.    Ventura and D’Ambrosia presented Market Positioning & Pricing Analysis material on  
10 Walgreens.

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

12          31.    On or about July 6, 2016, the Division sent D’Ambrosia a Cease & Desist Order.

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

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

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

16          35.    On or about October 27, 2016, Walgreens sold for \$5,084,745.00.

17          36.    According to M&M, RESPONDENT received \$2,500.00 in commission from the  
18 Walgreens sale.

19 **5015 Kietzke Lane, Reno, Nevada**

20          37.    On or about September 28, 2015, RESPONDENT signed a Representation Agreement  
21 for the sale of real property located at 5015 Kietzke Lane, Reno, Nevada (“Red Lobster Reno”).

22          38.    In that Representation Agreement, RESPONDENT acknowledges and agrees that  
23 Kunofsky’s affiliation with M&M “is material to” M&M’s engagement by Red Lobster Reno’s seller.

24          39.    On or about September 28, 2015, RESPONDENT entered into an “INTERSTATE  
25 BROKERAGE COOPERATION AGREEMENT – TURF STATE” with Kunofsky regarding the sale  
26 and marketing of Red Lobster Reno.

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

1 41. On a Duties Owed by a Nevada Real Estate Licensee form dated October 19, 2015,  
2 RESPONDENT is listed as the Broker for the seller of Red Lobster Reno.

3 42. That Duties Owed form provides that RESPONDENT shall abide "by all other duties,  
4 responsibilities and obligations required of the licensee in law or regulations."

5 43. On a Consent to Act form dated June 1, 2016, RESPONDENT is listed as the Broker for  
6 the seller of Red Lobster Reno.

7 44. Advertising for the offering for sale of Red Lobster Reno listed the phone number and  
8 address of Kunofsky's M&M branch in New York, New York as the contact information.

9 45. On or about June 27, 2016, Red Lobster Reno sold for \$5,218,000.00.

10 46. According to M&M, RESPONDENT received \$2,500.00 in commission from the Red  
11 Lobster Reno sale.

12 **2325 East Flamingo Road, Las Vegas, Nevada**

13 47. On or about September 28, 2015, RESPONDENT signed a Representation Agreement  
14 for the sale of real property located at 2325 East Flamingo Road, Las Vegas, Nevada ("Red Lobster Las  
15 Vegas").

16 48. In that Representation Agreement, RESPONDENT acknowledges and agrees that  
17 Kunofsky's affiliation with M&M "is material to" M&M's engagement by Red Lobster Las Vegas's  
18 seller.

19 49. On or about September 28, 2015, RESPONDENT signed an "INTERSTATE  
20 BROKERAGE COOPERATION AGREEMENT - TURF STATE" regarding the sale and marketing  
21 of Red Lobster Las Vegas.

22 50. That agreement provides that "NO OUT-OF-STATE AGENT INFORMATION SHALL  
23 BE INCLUDED ON ANY MARKETING/ADVERTISING MATERIALS." (Emphasis in original.)

24 51. On a Duties Owed by a Nevada Real Estate Licensee form dated October 19, 2015,  
25 RESPONDENT is listed as the Broker for the seller of Red Lobster Las Vegas.

26 52. That Duties Owed form provides that RESPONDENT shall abide "by all other duties,  
27 responsibilities and obligations required of the licensee in law or regulations."

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1           53.     On a Consent to Act form dated June 1, 2016, RESPONDENT is listed as the Broker for  
2 the seller of Red Lobster Las Vegas.

3           54.     Advertising for the offering for sale of Red Lobster Las Vegas stated it was being listed  
4 by Kunofsky for \$6,860,683.00.

5           55.     On or about August 22, 2016, Red Lobster Las Vegas sold for \$6,265,461.00.

6           56.     According to M&M, RESPONDENT received \$2,500.00 in commission from the Red  
7 Lobster Las Vegas sale.

8 **570 Marks Street, Henderson, Henderson, Nevada**

9           57.     On or about September 28, 2015, RESPONDENT signed a Representation Agreement  
10 for the sale of real property located at 570 Marks Street, Henderson, Nevada (“Red Lobster  
11 Henderson”).

12           58.     In that Representation Agreement, RESPONDENT acknowledges and agrees that  
13 Kunofsky’s affiliation with M&M “is material to” M&M’s engagement by Red Lobster Henderson’s  
14 seller.

15           59.     On or about September 28, 2015, RESPONDENT signed an “INTERSTATE  
16 BROKERAGE COOPERATION AGREEMENT – TURF STATE” regarding the sale and marketing  
17 of Red Lobster Henderson.

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

20           61.     On a Duties Owed by a Nevada Real Estate Licensee form dated October 19, 2015,  
21 RESPONDENT is listed as the Broker for the seller of Red Lobster Henderson.

22           62.     That Duties Owed form provides that RESPONDENT shall abide “by all other duties,  
23 responsibilities and obligations required of the licensee in law or regulations.”

24           63.     On a Consent to Act form dated June 1, 2016, RESPONDENT is listed as the Broker for  
25 the seller of Red Lobster Henderson.

26           64.     Advertising for the offering for sale of Red Lobster Henderson stated it was being listed  
27 by Kunofsky for \$6,018,676.00.

28           65.     On or about July 1, 2016, Red Lobster Henderson sold for \$5,935,000.00.

1 66. According to M&M, RESPONDENT received \$2,500.00 in commission from the Red  
2 Lobster Henderson sale.

3 **VIOLATIONS**

4 67. RESPONDENT violated NRS 645.235(1)(b) *on five (5) occasions* by knowingly  
5 assisting or offering to assist another person or persons to engage in activity for which a license, permit,  
6 certificate or registration or any type of authorization is required pursuant to NRS 645, or any  
7 regulation adopted pursuant thereto, even though that person or persons did not hold the required  
8 license, permit, certificate or registration or has not been given the required authorization.

9 **DISCIPLINE AUTHORIZED**

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

14 69. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of  
15 the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the  
16 Commission otherwise imposes discipline on RESPONDENT.

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

19 **NOTICE OF HEARING**

20 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the  
21 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and  
22 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

23 **THE HEARING WILL TAKE PLACE** on June 12, 2018 commencing at 9:00 a.m., or as  
24 soon thereafter as the Commission is able to hear the matter, and each day thereafter  
25 commencing at 9:00 a.m. through June 14, 2018, or earlier if the business of the Commission is  
26 concluded. The Commission meeting will be held on June 12, 2018, at the Nevada Division of  
27 Insurance, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. The meeting will  
28 continue on June 13, 2018 at the Nevada Division of Insurance, 1818 East College Parkway, Suite

1 103, Carson City, Nevada 89706., commencing at 9:00 a.m., and on June 14, 2018, should  
2 business not be concluded, starting at 9:00 a.m. at the Nevada Division of Insurance, 1818 East  
3 College Parkway, Suite 103, Carson City, Nevada 89706.

4 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same  
5 time as part of a regular meeting of the Commission that is expected to last from June 12 through  
6 June 14, 2018, or earlier if the business of the Commission is concluded. Thus, your hearing may  
7 be continued until later in the day or from day to day. It is your responsibility to be present  
8 when your case is called. If you are not present when your hearing is called, a default may be  
9 entered against you and the Commission may decide the case as if all allegations in the complaint  
10 were true. If you have any questions please call Rebecca Hardin, Commission Coordinator (702)  
11 486-4074.

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

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

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

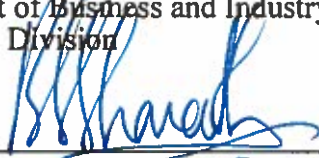
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1 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC  
2 645 and if the allegations contained herein are substantially proven by the evidence presented and to  
3 further determine what administrative penalty is to be assessed against the RESPONDENT, if any,  
4 pursuant to NRS 645.235, 645.633 and or 645.630.

5 DATED this 4 day of May, 2018.

6 State of Nevada  
7 Department of Business and Industry  
8 Real Estate Division

9 By:   
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