

BEFORE THE REAL ESTATE COMMISSION  
STATE OF NEVADA

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

Petitioner,

vs.

PATRICIA LEBEAU-WITTY,

Respondent.

Case No. 2017-64

FILED

JUN 26 2019

REAL ESTATE COMMISSION  
BY *Evelyn Tatta*

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came on for hearing before the Real Estate Commission, Department of Business and Industry, State of Nevada (the "Commission"), during a regular agenda on June 11, 2019, at the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102 (the "Hearing"). The RESPONDENT, PATRICIA LEBEAU-WITTY (hereinafter, "RESPONDENT" or "WITTY") appeared with her current broker, Clyde Matt. Michelle D. Briggs, Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"). Commissioner Reiss stated he had a conflict and recused himself.

After hearing testimony and reviewing the documents presented in this matter and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law, and Order as follows:

FINDINGS OF FACT

The Commission, by a vote of 4-0-1, based upon the evidence presented during the Hearing, finds that by a preponderance of the evidence in the record the following facts have been proven.

1. RESPONDENT was at all relevant times and is currently licensed as a Broker-Salesperson under license number BS.0035716.

1           2.     On or about September 29, 2016, RESPONDENT PATRICIA LEBEAU-  
2 WITTY prepared a residential purchase agreement for her primary residence located at  
3 2074 Jupiter Hills Lane in Henderson, Nevada (the "Property") owned in trust for which  
4 RESPONDENT was a trustee.

5           3.     The purchase agreement states the closing date is January 31, 2017.

6           4.     RESPONDENT listed herself as the agent for both the seller and the buyer.

7           5.     The purchase agreement was contingent on the sale of buyer's house, but in  
8 October, buyer informed RESPONDENT that he planned to pay cash and did not need the  
9 contingency.

10          6.     On or about November 28, 2016, RESPONDENT sent a cancellation of the  
11 agreement for buyer to sign, he refused.

12          7.     RESPONDENT emailed buyer saying:

13                 Per section 17 of the contract, we are defaulting on this agreement. Item B  
14 states that you are only able to receive your actual damages under this  
15 agreement. As if [sic] this date, that amount is zero. So please sign the  
16 agreement so that we may move forward with our lives. Thank you for your  
17 understanding.

18          8.     RESPONDENT sent two addenda to the purchase agreement deleting the 3%  
19 closing fees credit, adding conditions on the title company, moving up the closing date, and  
20 allowing RESPONDENT to remain in the Property after the closing.

21          9.     Buyer refused to sign the addenda and objected to removal of the 3% credit,  
22 because the purchase agreement included an additional term that any portion that was not  
23 used for closing costs would be provided to the buyer as a flooring credit.

24          10.    By email dated November 29, 2016 to RESPONDENT, Buyer requested the  
25 resale packages and other due diligence items and stated she had not provided the duties  
26 owed or consent to act forms.

27          11.    RESPONDENT threatened to list the Property on the multiple listing service  
28 if the addenda were not signed.

          12.    Buyer threatened legal proceedings to force compliance with the purchase  
agreement.

13. RESPONDENT'S associated broker, James Cerrone of Realty One Group, Inc., first became aware of the transaction by way of copy to the emails between buyer and RESPONDENT at the end of November 2016.

14. Mr. Cerrone had not received a copy of the purchase agreement and knew nothing about it, but after he became aware, he notified buyer that RESPONDENT would proceed with the transaction.

15. Buyer proceeded with obtaining an inspection and received the seller's real property disclosure, but had not received the associations' resale packages by January 2017.

16. Buyer cancelled the purchase agreement, by letter dated January 9, 2017, asserting he had not received the homeowners' association resale packages and there was not enough time for him to review them.

17. After receiving the cancellation, RESPONDENT sent buyer an anti-Semitic text and email and left harassing voicemail messages.

18. Buyer filed a complaint against RESPONDENT with the Division alleging RESPONDENT did not provide a duties owed form, consent to act, or the homeowner association resale packages.

19. During the investigation, RESPONDENT admitted to entering into a purchase contract with buyer on September 29, 2016 at approximately 9:00pm and serving as buyer's agent in the transaction.

20. RESPONDENT said she did not provide the duties owed, consent to act or the residential disclosure guide because the buyer “insisted the balance of all of the paperwork, including the disclosures could wait.”

## CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Commission concludes by a vote of 4-0-1, that RESPONDENT committed the following violations of law.

21. RESPONDENT violated NRS 645.252(3) or NRS 645.633(1)(h) by failing to provide buyer with the duties owed form.

22. RESPONDENT violated NRS 645.252(1)(d) or NRS 645.633(1)(h) by failing to obtain written consent from each party that she was acting for more than one party to the transaction.

23. RESPONDENT violated NRS 645.252(2) by failing to exercise reasonable skill and care with respect to the buyer by failing to provide the association resale packages when buyer specifically requested them.

24. RESPONDENT violated NRS 645.633(1)(h) (through NAC 645.605(6)) by committing gross negligence or incompetence by breaching her obligation of absolute fidelity to the buyer and failing to fairly deal with the parties by threatening to cancel the purchase agreement if buyer did not agree to material economic changes to the purchase agreement.

25. RESPONDENT violated NAC 645.650(2) and NRS 645.633(1)(h) (through NAC 645.605(7)) by committing gross negligence or incompetence by failing to provide a copy of the signed purchase contract to her associated broker within 5 calendar days after the paperwork was executed by all the parties.

## ORDER

The Commission being fully apprised in the premises, and good cause appearing to the Commission, by a unanimous vote, ORDERS as follows:

1. RESPONDENT'S broker-salesperson license is downgraded to salesperson.

2. RESPONDENT shall pay an administrative fine to the Division in the total amount of \$11,616.64 – which includes a fine of \$10,000 for the violations of law and \$1,616.64 representing the total amount due for the Division’s attorney’s fees and costs. The total administrative fine shall be paid as follows: the sum of \$6,616.64 shall be paid within 6 months from the effective date of this Order; and the remaining \$5,000 shall be due no later than 12 months from the effective date of this Order.

3. The Division may institute debt collection proceedings for failure to timely pay the total fine, including action to reduce this Order to a judgment. Further, if collection goes through the State of Nevada, then RESPONDENT shall also pay the costs associated



1 with collection.

2 4. RESPONDENT shall take 6 hours continuing education consisting of 3 hours  
3 in the area of agency and 3 hours in the area of ethics, to be completed within 6 months  
4 from the effective date of this Order. The hours must be live education and will not count  
5 toward RESPONDENT'S continuing education requirements for license renewal.

6 5. If RESPONDENT fails to comply with the terms of this Order, either with  
7 regard to the payment of the administrative fine or the hours of continuing education,  
8 RESPONDENT shall be in default of this Order. In the event of default, RESPONDENT'S  
9 license shall be immediately suspended until the administrative fine is paid in full and the  
10 hours are completed.

11 6. The Commission retains jurisdiction for correcting any errors that may have  
12 occurred in the drafting and issuance of this document.


13 7. This Order shall become effective on the 26<sup>th</sup> day of July, 2019.

14 DATED this 26<sup>th</sup> day of June, 2019.

15  
16 REAL ESTATE COMMISSION  
STATE OF NEVADA

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19 By:   
President, Nevada Real Estate Commission

20 Submitted by:  
21 AARON D. FORD  
Attorney General

22  
23 By:   
Michelle D. Briggs, Esq.  
24 Senior Deputy Attorney General  
555 E. Washington Avenue, Suite 3900  
25 Las Vegas, Nevada 89101  
(702) 486-3420  
26 Attorneys for Nevada Real Estate Division  
27  
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