

FILED

NOV 14 2019

REAL ESTATE COMMISSION
BY *Emily Tattler*

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. 2017-1839

STIPULATION AND ORDER
FOR SETTLEMENT
OF DISCIPLINARY ACTION

Petitioner,

vs.

WILLIAM G. WITHELDER,

Respondent.

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator Sharath Chandra ("Petitioner"), and William G. Withelder ("RESPONDENT").

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a broker salesperson and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT

1. RESPONDENT has been licensed as Broker Salesperson under license number BS.0059099 since January 5, 2004, and said license is currently on active status.

2. In late 2005, Delbert and Darlene Moore (the "Moore") approached RESPONDENT to look at properties in the Falcon Ridge golf community located in Mesquite, Nevada.

3. After looking at properties, RESPONDENT and Mr. Moore went to RESPONDENT's house which is also located in the Falcon Ridge community on Clark County Assessor's Parcel No. 001-07-410-021, more commonly known as 484 Calais Dr., Mesquite, NV 89027 (the "Property").

4. Mr. Moore inquired whether he could purchase the Property from RESPONDENT.

5. RESPONDENT agreed to sell the Property to the Moores for a purchase price of \$975,000 dollars.

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3 6. During the sale of the Property, RESPONDENT claims that he disclosed to the Moores that
4 he was a licensed real estate agent but was entering into the sale of the Property on his own behalf and
5 was not represented by his broker at the time, Premier Properties of Mesquite, Inc., a Nevada
6 corporation ("Premier").

7 7. RESPONDENT claims that no agents were used on his or the Moores' behalf.

8 8. The Moores claim that prior to the sale of the Property closing, RESPONDENT represented
9 to them that the pool on the Property had inadvertently been built outside the rear property line and was
10 encroaching upon the adjacent golf course.

11 9. The Moores allege that RESPONDENT assured them that the encroachment issue had been
12 remedied through a lot line adjustment.

13 10. RESPONDENT'S broker at the time, Premier, claims that it did not represent
14 RESPONDENT in the transaction with the Moores and that Premier did not receive any compensation
15 for the sale of the Property.

16 11. Ultimately the parties closed the sale of the Property and the deed from RESPONDENT
17 to the Moores was recorded on May 2, 2006.

18 12. On or around April of 2017, the Moores decided to sell the Property to a subsequent
19 purchaser.

20 13. During the 2017 transaction, the Moores discovered that the lot line of the Property had
21 not been adjusted as they claim RESPONDENT had represented to them, and that as a result, the pool
22 area of the Property still encroached upon the adjacent golf course.

23 14. The Moores allege that they then paid approximately \$2,364.15 to have the Property
24 surveyed to create a new legal description to effectuate the lot line adjustment so that they could
25 complete the sale of the Property in 2017 to the subsequent purchasers.

26 15. The Moores sale of the Property to the subsequent buyers closed and the deed was
27 recorded on July 6, 2017.

28 16. The Moores allege that following the 2017 sale of the Property, they contacted
RESPONDENT regarding his representation to them that the line adjustment had been effectuated prior
to their purchase of the Property.

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2 17. The Moores allege RESPONDENT told them to contact Premier regarding the issue.

3 18. The Moores allege they subsequently sent a demand letter to the title company and to
4 Premier but received no response.

5 19. On August 10, 2017 the Moores filed a complaint with the Division alleging
6 RESPONDENT misrepresented to them that the encroachment issue on the Property had been resolved
7 by a lot line adjustment prior to their purchase of the Property.

8 **SUMMARY VIOLATION OF LAW ALLEGED IN THE COMPLAINT**

9 Respondent is alleged to have violated the following:

10 20. RESPONDENT violated NRS 645.633(1)(i) by misrepresenting to the Moores that the lot
11 line
12 adjustment on the Property had been effectuated prior to the sale of the Property when it had not.

13 21. RESPONDENT violated NRS 645.633(1)(i) by telling the Moores to speak to his
14 broker, Premier, regarding the unresolved lot line adjustment in 2017 because RESPONDENT knew
15 that he handled the 2006 transaction on his own behalf and not through Premier.

16 **DISCIPLINE AUTHORIZED**

17 22. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an
18 administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend,
19 revoke or place conditions on the license of RESPONDENT.

20 23. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the
21 proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission
22 otherwise imposes discipline on RESPONDENT.

23 **PROPOSED SETTLEMENT**

24 1. In an effort to avoid the time and expense of litigating these issues before the Commission,
25 the parties desire to compromise and settle the instant controversy upon the following terms and
26 conditions:

27 RESPONDENT agrees to pay complainants Delbert and Darlene Moore the sum of \$2,364.15
28 (the "Payment to Claimant"). RESPONDENT shall provide proof of the Payment to Claimant to the
Division within 60 days of the effective date of the order approving this settlement.

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2 RESPONDENT also agrees to pay the Division's pre-hearing costs and attorneys' fees in the
3 total amount of \$1,535.85 ("Real Estate Division Payment"). RESPONDENT shall pay the Real Estate
4 Division Payment to the Division within 60 days of the effective date of the order approving this
5 settlement.

6 RESPONDENT further agree to attend 3 hours of continuing education in ethics which shall be
7 live instruction and which shall not count towards the amount necessary for RESPONDENT's license
8 renewal. RESPONDENT shall complete said education within 60 days of the date of the order
9 approving this settlement.

10 2. RESPONDENT and the Division agree that by entering into this Stipulation, the
11 Division does not concede any defense or mitigation RESPONDENT may assert and that once this
12 Stipulation is approved and fully performed, the Division will close its file in this matter. Nothing
13 herein prevents proof and giving consideration to acts complained of in this matter in determining or
14 penalizing a future violation by RESPONDENT of any provision of NRS Chapter 645 or NAC Chapter
15 645.

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

27 4. Each party shall bear their own attorney's fees and costs, except as provided above.

28 5. Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission

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2 and will be placed on the agenda for approval at its next public meeting. The Division will recommend
3 to the Commission approval of the Stipulation. RESPONDENT agrees that the Commission may
4 approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by
5 RESPONDENT before any amendment is effective.

6 6. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
7 amendments unacceptable to RESPONDENT, RESPONDENT may withdraw from this Stipulation.
8 and the Division may pursue its Complaint before the Commission at the next or a future public
9 meeting. This Stipulation then shall become null and void and unenforceable in any manner against
10 either party.

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

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

28 9. Default. In the event of default, RESPONDENT agrees that his license shall be
immediately

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2 suspended, and the unpaid balance of the administrative fine and costs, together with any attorney's
3 fees and costs that may have been assessed, shall be due in full to the Division within ten calendar days
4 of the date of default. Debt collection actions for unpaid monetary assessments in this case may be
5 instituted by the Division or its assignee. RESPONDENT agrees that his license shall be immediately
6 suspended if he fails to timely attend and complete the above continuing education. RESPONDENT
7 agrees that the suspension of his license shall continue until the continuing education is completed.
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10 10. RESPONDENT has signed and dated this Stipulation only after reading and understanding
11 all terms herein.

12 DATED this 20th day of October, 2019.

DATED this 30 day of October, 2019.

14 NEVADA DEPARTMENT OF BUSINESS
15 & INDUSTRY, REAL ESTATE DIVISION

16 By: 
17 WILLIAM G. WITHELDER

By: 
SHARATH CHANDRA
Administrator

18 Approved as to form:

19 AARON D. FORD
20 Attorney General

21 By: _____
22 Karissa D. Neff (Bar. No. 9133)
23 Deputy Attorney General
24 555 E. Washington Avenue, Suite 3900
25 Las Vegas, NV 89101
26 Attorneys for Real Estate Division
27
28

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7 agrees that the suspension of his license shall continue until the continuing education is completed.
8

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

12 DATED this 27th day of October, 2019

DATED this 30 day of October, 2019.

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16 By: William G. Withelder
17 WILLIAM G. WITHELDER

NEVADA DEPARTMENT OF BUSINESS
& INDUSTRY, REAL ESTATE DIVISION
18 By: Sharath Chandra
19 SHARATH CHANDRA
20 Administrator

21 Approved as to form:

22 AARON D. FORD
23 Attorney General

24 By: Karissa D. Neff
25 Karissa D. Neff (Bar. No. 9133)
26 Deputy Attorney General
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Attorneys for Real Estate Division

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,

Case No. 2017-1839

Petitioner,

7 vs.

8 WILLIAM G. WITHELDER,

9 Respondent.

10 ORDER APPROVING STIPULATION AND ORDER
11 FOR SETTLEMENT OF DISCIPLINARY ACTION

12 That certain Stipulation and Order for Settlement of Disciplinary Action in this action, having
13 come before the Real Estate Commission, Department of Business and Industry, State of Nevada, during
14 its regular agenda commencing on November 5, 2019, and the Commission being fully apprised in the
15 premises, and good cause appearing,

16 IT IS SO ORDERED that the Stipulation and Order for Settlement of Disciplinary Action in this
17 matter, entered into by Petitioner and Respondent, is approved in full.

18 Dated: November 14, 2019.

20 REAL ESTATE COMMISSION
21 STATE OF NEVADA

22 By: 
23 President, Nevada Real Estate Commission

24 Submitted by:
25
26
27
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1 AARON FORD, Attorney General

2
3 By: 

4 Karissa D. Neff
5 Deputy Attorney General
6 555 E. Washington Ave. Ste 3900
7 Las Vegas, Nevada 89101
8 Attorneys for Real Estate Division
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