

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

FEB 22 2019

REAL ESTATE COMMISSION
BY *[Signature]*

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies RESPONDENT PATRICIA LEBEAU-WITTY ("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 the RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633 and/or 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-Salesperson under license number BS.0035716, and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

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

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

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

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

3 5. On or about November 28, 2016, RESPONDENT sent a cancellation of the agreement for
4 buyer to sign, he refused.

5 6. RESPONDENT emailed buyer saying:

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

10 7. RESPONDENT sent two addenda to the purchase agreement deleting the 3% closing fees
11 credit, adding conditions on the title company, moving up the closing date, and allowing RESPONDENT
12 to remain in the Property after the closing.

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

16 9. By email dated November 29, 2016 to RESPONDENT, Buyer requested the resale
17 packages and other due diligence items and stated she had not provided the duties owed or consent to act
18 forms.

19 10. RESPONDENT threatened to list the Property on the multiple listing service if the
20 addenda were not signed.

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

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

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

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

 15. 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

1 review them.

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

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

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

10 19. RESPONDENT said she did not provide the duties owed, consent to act or the residential
11 disclosure guide because the buyer "insisted the balance of all of the paperwork, including the disclosures
12 could wait."

13 20. RESPONDENT said she did not provide the resale packages because buyer told her he
14 did not need them since he owned a house in the same association already.

15 VIOLATIONS OF LAW

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

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

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

23 24. RESPONDENT violated NRS 645.252(2) by failing to exercise reasonable skill and care
24 with respect to the buyer by using anti-Semitic language and harassing voicemails to respond to buyer's
25 letter to cancel the purchase agreement.

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

1 material economic changes to the purchase agreement.

2 26. RESPONDENT violated NAC 645.650(2) and NRS 645.633(1)(h) (through NAC
3 645.605(7)) by committing gross negligence or incompetence by failing to provide a copy of the signed
4 purchase contract to her associated broker within 5 calendar days after the paperwork was executed by
5 all the parties.

6 DISCIPLINE AUTHORIZED

7 Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an
8 administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend, revoke
9 or place conditions on the license of RESPONDENT. The Commission may impose any combination of
10 those actions.

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

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

16 NOTICE OF HEARING

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

20 **THE HEARING WILL TAKE PLACE** on March 26, 2019, commencing at 9:00 a.m., or as
21 soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing
22 at 9:00 a.m. through March 28, 2019, or earlier if the business of the Commission is concluded.
23 The Commission meeting will be held on March 26, 2019, at the Nevada State Business Center,
24 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will
25 continue on March 27, 2019 at the Nevada State Business Center, 3300 West Sahara Avenue, 4th
26 Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on March 28, 2019,
27 should business not be concluded, starting at 9:00 a.m. at the Nevada Department of Employment,
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1 Training and Rehabilitation, 2800 W. St. Louis Avenue, Conference Room, Las Vegas, Nevada
2 89104.

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 26, 2019
5 through March 28, 2019, 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 may
8 be entered against you and the Commission may decide the case as if all allegations in the complaint
9 were true. If you have any questions please call Evelyn Pattee, Commission Coordinator, (702)
10 486-4074.

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

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


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

26 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
27 645 and if the allegations contained herein are substantially proven by the evidence presented and
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1 to 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: February 21, 2019.

4 STATE OF NEVADA
5 DEPARTMENT OF BUSINESS AND INDUSTRY
6 REAL ESTATE DIVISION

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