

FILED

BEFORE THE REAL ESTATE COMMISSION DEC 31 2020

STATE OF NEVADA

REAL ESTATE COMMISSION
BY *Evie Patten*

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

Case No. 2018-1466

Petitioner,

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

vs.

MICHELLE LENA E HARMON,

Respondent.

DECISION

This matter came before the Nevada Real Estate Commission ("Commission") for hearing on September 1-3, 2020, via virtual telephone and video conference, and again on December 7-9, 2020. Respondent MICHELLE LENA E HARMON ("RESPONDENT") did not appear at either hearing. Deputy Attorney General, Peter K. Keegan, appeared and prosecuted the Complaint on behalf of petitioner Sharath Chandra, Administrator of the Real Estate Division, Department of Business & Industry, State of Nevada ("Division").

The matter having been submitted for decision based upon the allegations of the Complaint, the Commission now enters its Findings of Fact and Conclusions of Law as follows:

JURISDICTION

At all times relevant, RESPONDENT held a real estate salesperson license, S.0180029 as well as a property management permit, PM.0166966. RESPONDENT engaged in activities which require a license as a real estate broker, real estate broker-salesperson, or real estate salesperson, and/or a permit to engage in property management, issued by the Division and is, therefore, subject to the jurisdiction of the Division and the Commission, and the provisions of NRS and NAC 645.

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PROCEDURAL HISTORY

1
2 The Commission, finds that there is substantial evidence in the record to establish
3 each of the following:

4 1. On or about October 11, 2018, the Division received a statement of fact
5 (“complaint”) complaining that RESPONDENT materially altered property management
6 agreements executed by the complainant.

7 2. On or about October 17, 2018, the Division sent an investigation-opening
8 letter to RESPONDENT, which required RESPONDENT to provide a sworn statement
9 responding to the complaint, no later than October 31, 2018.

10 3. On or about October 17, 2018, an investigation-opening letter was also sent
11 to the RESPONDENT’s broker of record, Jason Evanchak, B.0143842.CORP, of Realty
12 Corner Inc. dba PMI Nevada, requiring him to provide a sworn statement responding to
13 the complaint along with a complete copy of the broker’s transaction file for the property
14 in question.

15 4. On or about November 12, 2018, the Division received the RESPONDENT’s
16 sworn affidavit.

17 5. On or about March 12, 2019, the Division sent RESPONDENT an NRS 233B
18 letter indicating that the Division’s investigation had obtained sufficient evidence to
19 commence disciplinary action by filing a complaint with the Nevada Real Estate
20 Commission (“Commission”).

21 6. On July 29, 2020, the Division filed its Complaint and Notice of Hearing
22 (“Complaint”) with the Nevada Real Estate Commission in this matter.

23 7. Proper notice of a hearing set for September 1-3, 2020, was served upon the
24 Respondent and Respondent’s Broker in accordance with NRS 645.680(5).

25 8. On September 1-3, 2020, the RESPONDENT failed to appear at the time
26 scheduled for the hearing in this matter, as required by NAC 645.860.

27 9. Respondent’s Broker of Record appeared at the scheduled time for the
28 hearing in this matter.

1 10. Counsel for the Division represented to the Commission during the
2 September 1-3, 2020 hearing that RESPONDENT had not filed an answer to the
3 Complaint.

4 11. Default was entered against the Respondent for failure to appear, pursuant
5 to NAC 645.860, and the charges in the Complaint and Notice of Hearing, and recited
6 herein, were determined to be considered true.

7 12. On or about August 25, 2020, RESPONDENT submitted an answer
8 admitting the violations of law alleged in the Division's Complaint.

9 13. The RESPONDENT's answer dated August 25, 2020 also indicated she
10 would not attend the hearing scheduled for September 1-3, 2020, due to work constraints.

11 14. On December 7-9, 2020, this matter was reset on the Commission's calendar
12 for hearing at the request of the Division.

13 15. Proper notice of the December 7-9, 2020 hearing was served upon the
14 Respondent and Respondent's Broker in accordance with NRS 645.680(5).

15 16. Respondent's Broker of Record appeared at the scheduled time for the
16 hearing in this matter.

17 17. At the December 7-9, 2020, Commission hearing, Division counsel
18 represented he was unaware of the RESPONDENT's August 25, 2020 answer until after
19 the September 1-3, 2020 hearing.

20 18. The Commission reviewed the RESPONDENT's August 25, 2020 answer.

21 19. The Commission voted, 4 to 1, in favor of upholding the default, entered
22 pursuant to NAC 645.860, against the RESPONDENT at the September 1-3, 2020
23 hearing.

24 **FINDINGS OF FACT**

25 20. At all times relevant, RESPONDENT held a real estate salesperson license,
26 S.0180029 as well as a property management permit, PM.0166966.

27 21. On or about August 14, 2017, RESPONDENT's brokerage entered into a
28 Residential Property Management Agreement with the owners of the property at 6339
Alderlyn Avenue, Las Vegas, Nevada 89122 ("the Property").

1 22. On or about September 8, 2017, the complainants herein signed a
2 Residential Lease/Rental Agreement for the property in question.

3 23. RESPONDENT signed the Residential Lease/Rental Agreement as the
4 Property Manager.

5 24. The term of the Residential Lease/Rental Agreement was to terminate
6 September 30, 2018.

7 25. On or about August 5, 2018, the complainants signed Addendum No. 1 to the
8 Residential Lease Agreement, which specified “[t]he new lease term will expire on March
9 31, 2019 at 11:59 pm.”

10 26. RESPONDENT signed Addendum No. 1 to the Residential Lease Agreement
11 as the authorized agent for the broker.

12 27. On or about October 5, 2018, the complainants paid the October 2018 rent
13 for the property.

14 28. The RESPONDENT's brokerage ledger for the property in question does not
15 include receipt of the complainants' rent payment on October 5, 2018.

16 29. The complainants received a Thirty-Day “No Cause” Notice to Quit on
17 October 5, 2018.

18 30. The Thirty-Day “No Cause” Notice to Quit showed a date of service of
19 September 17, 2018.

20 31. The Notice to Quit required the complainants to vacate the property in
21 question no later than 30 calendar days following the date of service of the Notice to Quit.

22 32. The complainants received a copy of Addendum No. 1 to the Residential
23 Lease Agreement from property owner's listing agent, which stated “[t]he new lease term
24 will expire on October 18, 2018 at 11:59 pm.”

25 33. On or about October 10, 2018, the complainants received a Five-Day Notice
26 to Pay Rent or Quit.

1 4. RESPONDENT violated NRS 645.635(5) when she presented the altered
2 Addendum No. 1 to Residential Lease Agreement to a real estate licensee representing a
3 party to the transaction to sell the property in question.

4 **ORDER**

5 IT IS HEREBY ORDERED that Respondent shall pay to the Division a total
6 penalty of \$42,816.04. The total reflects a fine of \$10,000.00 for violating NRS 645.3205
7 and/or NAC 645.605(1); \$10,000.00 for violating NRS 645.630(1)(a) and/or NAC
8 645.605(6); \$10,000.00 for violating NRS 645.635(1); and \$10,000.00 for violating NRS
9 645.635(5); as well as \$2,816.04 for hearing and investigative costs. Respondent shall pay
10 the total fine to the Division within ninety (90) days of the effective date of this Order.

11 If the payment is not actually received by the Division on or before its due date, it
12 shall be construed as an event of default by Respondent. In the event of default,
13 Respondent's licenses and permit shall be immediately suspended, and the unpaid
14 balance of the administrative fine and costs, together with any attorney's fees and costs
15 that may have been assessed, shall be due in full to the Division within ten calendar days
16 of the date of default. The Division may institute debt collection proceedings for failure to
17 timely pay the total fine.

18 IT IS FURTHER ORDERED that Respondent's real estate salesperson license,
19 S.0180029, and her property management permit, PM.0166966, are hereby REVOKED.

20 The Commission retains jurisdiction for correcting any errors that may have
21 occurred in the drafting and issuance of this Decision.

22 This Order shall become effective on the 30th day of January, 2021.

23
24 DATED this 31st day of December, 2020

25 REAL ESTATE COMMISSION
26 STATE OF NEVADA

27
28 By: 
President, Nevada Real Estate Commission