

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

FILED

JUL 31 2020

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

Case No. 2019-320

REAL ESTATE COMMISSION
BY *Emily Patten*

Petitioner,

vs.

CHARLES M. HOLLISTER,

Respondent.

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, Aaron D. Ford, Attorney General of the State of Nevada, and Robert E. Werbicky, Deputy Attorney General, hereby notifies RESPONDENT CHARLES M. HOLLISTER ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE 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, NRS 645.630 and NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

RESPONDENT at all relevant times mentioned in this Complaint was licensed as a Salesperson by the Division 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. RESPONDENT has been licensed by the Division as a Salesperson, S.0056329, operating with Urban Nest Realty LLC.
2. The licensed broker of Urban Nest Realty LLC is Mr. David J. Tina (the "BROKER").

1 3. 6800 S. Squaw Valley Road, Pahrump, Nevada (the "Property") was offered for sale by
2 Nancy Willmes as Administrator of the Estate of Charles Franklin (the "Seller").

3 4. Any proposed sale of the Property was subject to review by the Probate Court.

4 5. RESPONDENT was the agent of the Seller and the Listing Agreement was signed on
5 December 3, 2018.

6 6. On or about December 8, 2018 Richard and Martha Hamp (the "Hamps") contacted
7 RESPONDENT about the Property.

8 7. RESPONDENT initially indicated he would be representing both the Hamps and the
9 Seller of the Property because the Hamps did not disclose they already had an agent.

10 8. On or about December 8, 2018 the Hamps submitted an offer to purchase the Property
11 through their agent, Jose Inchauriga, to RESPONDENT as the agent of the Seller.

12 9. The initial offer was rejected and a counter-offer presented by Seller which was rejected
13 by the Hamps.

14 10. On or about December 10, 2018 the Hamps presented an offer of \$120,000 which was
15 accepted and RESPONDENT sent a Residential Purchase Agreement ("RPA").

16 11. Given the acceptance of the Hamps' offer a hearing was set before Probate Court on
17 February 12, 2019 regarding the sale and notice of the hearing provided.

18 12. The RPA was amended to account for the hearing date by way of Addendum #1 on
19 January 14, 2019.

20 13. The Hamps were purchasing the Property by way of a loan.

21 14. RESPONDENT states "the RPA directly instructs the Buyer to give details of the Loan
22 Approval to the Seller and as the Seller's Agent I was entitled to this information" and "I would have
23 direct access to the Loan Approval process and the value of the loan. . ."

24 15. RESPONDENT had knowledge of the Hamps' loan amount and the loan approval process
25 associated with the purchase of the Property.

26 16. The Hamps paid for an appraisal which resulted in a finding of "Fair" condition which
27 placed the loan in jeopardy.

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1 17. RESPONDENT was informed of this and was provided with a Request for Repairs on
2 January 25, 2019.

3 18. RESPONDENT initially indicated it was “too late for repairs” and did not indicate the
4 Request for Repairs was forwarded to the Seller.

5 19. On January 28, 2019 the Seller, through RESPONDENT and the Hamps, through their
6 agent, executed Addendum #2 to the RPA which established a procedure whereby the Hamps provided
7 money into escrow to pay for repairs to the Property which would allow the Hamps to obtain the loan.

8 20. The Hamps deposited the funds into escrow and the repairs on the Property were
9 performed.

10 21. RESPONDENT knew of the additional efforts and costs the Hamps performed in order to
11 qualify for the loan which would allow them to purchase the Property.

12 22. Given RESPONDENT’s “access to the Loan Approval process and the value of the loan”
13 as well as knowledge of the repairs paid for by the Hamps, gave RESPONDENT information which
14 would place him at an advantage over the general public during an auction.

15 23. Armed with this knowledge RESPONDENT stated: “Just prior to the Hearing to Confirm
16 the Sale on the 12th of February, I approached one of my consistent clients, Eric Lin, to see if he would
17 be interested in buying the property.”

18 24. RESPONDENT appeared at the hearing on February 12, 2019 and issued a bid of
19 \$125,000 on the Property.

20 25. RESPONDENT did not indicate whom he was representing at the hearing.

21 26. RESPONDENT did indicate he represented both the buyer and the seller.

22 27. The Court rescheduled the hearing to review documents not provided before the February
23 12, 2019 hearing and rescheduled the hearing for February 26, 2019.

24 28. At the hearing on February 26, 2019 the court awarded the Property to the Hamps.

25 29. At the hearing on February 26, 2019, the court stated on the record, among other
26 comments:

27 . . .I’m going to tell you, it was kind of shady. I’ll just be honest with you.
28 I did not like what I saw in court the other day and that’s exactly why I

1 continued this hearing to take a look at the addendums. But basically they
2 worked all along very hard for the Hamps to get the Property and then they
3 show up in court and basically the rug gets ripped right out, attempts to get
4 ripped right out from underneath them, and they've jumped through some
5 incredible hoops to try and get this house. . .

6 30. RESPONDENT was required to provide any paperwork to the broker with whom he or
7 she is associated within 5 calendar days after that paperwork is executed by all the parties.

8 31. The Hamps filed a complaint with the Real Estate Division on or about March 27, 2019.

9 32. As part of its investigation the Division on April 4, 2019 sent a request to the BROKER
10 requesting the broker file(s) for the transactions on the Property be produced to the Division.

11 33. The documents produced by the BROKER did not include all Duties Owed By A Nevada
12 Real Estate Licensee form (the "Duties Owed") signed by Nancy Wilmes or Eric Lin.

13 34. As part of its investigation the Division sent a request to the RESPONDENT requesting
14 RESPONDENT provide an affidavit in response to the Hamp Complaint to the Division.

15 35. On April 18, 2019 RESPONDENT signed a sworn declaration under penalty of perjury
16 that the documents produced were "a true, correct and complete copy of any and all documents" regarding
17 the Property.

18 36. As a result of the documents, written testimony, and other evidence on July 10, 2019 the
19 Division issued a Notice of Violation with Imposition of Administrative Fine finding violations of NRS
20 645.252(3), NRS 645.633(1)(h) pursuant to NAC 645.637 (failing to provide the Duties Owed form to
21 the principal), and NRS 645.633(1)(h) pursuant to NAC 645.605(1) (Bidding on the property when he
22 knew the loan amount the Hamps were approved for regarding the Property).

23 37. On July 24, 2019 RESPONDENT replied to the Notice of Violation with Imposition of
24 Administrative Fine and provided additional documentation including several Duties Owed forms related
25 to the Property.

26 38. The failure to timely provide the Duties Owed forms to the Division impeded the
27 investigation being conducted by the Division.

28 VIOLATIONS

RESPONDENT has committed the following violations of law:

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1 39. RESPONDENT violated NAC 645.650(2) by not timely producing all Duties Owed forms
2 to the BROKER and, as a result, the forms were not included in the complete transaction file copy
3 submitted to the Division.

4 40. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(11)(a) by not
5 providing the Duties Owed forms timely, RESPONDENT impeded an investigation of the Division.

6 41. RESPONDENT violated NAC 645.605(1) by not doing his utmost to protect the public
7 against fraud, misrepresentation or unethical practices related to real estate.

8 42. RESPONDENT violated NAC 645.605(6) by not dealing fairly with all parties to the real
9 estate transaction RESPONDENT.

10 43. RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605(1) & (6) by not
11 disclosing to the Hamps his intent to submit his own bid or a bid for his buyer client prior to
12 RESPONDENT actually submitting the bid to purchase.

13 **DISCIPLINE AUTHORIZED**

14 44. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an
15 administrative fine per violation against RESPONDENT that may not exceed \$10,000, and further to
16 suspend, revoke or place conditions on the license of RESPONDENT.

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

20 46. Therefore, the Division requests that the Commission take such disciplinary action as it
21 deems appropriate under the circumstances.

22 **NOTICE OF HEARING**

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

26 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for September
27 1-3, 2020, beginning at approximately 9:00 a.m. each day, or until such time as the Commission
28 concludes its business.

1 If the Governor's Emergency Directive 006 - suspending physical location requirements - is
2 extended through the date of the meeting, then the hearing will be held via virtual meeting. The
3 Commission uses WebEx for its meetings. To join the hearing go to the Webex.com website and put in
4 the Access code and Attendee ID:

5 **TUESDAY, SEPTEMBER 1, 2020** Meeting number (Access code): 146 276 8028 Password
6 (Attendee ID): MgCrCbJq662 (64272257662 from phones and video systems)

7 **WEDNESDAY, SEPTEMBER 2, 2020** Meeting number (Access code): 146 650 1911 Password
8 (Attendee ID): 2rGzteBYY24 (27498329924 from phones and video systems)

9 **THURSDAY, SEPTEMBER 3, 2020** Meeting number (Access code): 146 520 3582 Password
10 (Attendee ID): umV3mJJ2gP2 (86836552472 from phones and video systems)

11 If you do not have internet access, you may attend by phone at 1-844-621-3956 using the access
12 codes and attendee IDs listed above. Some mobile devices may ask attendees to enter a numeric attendee
13 ID provided above. If Emergency Directive 006 is not extended and the meeting is held in person, then
14 the meeting will be located at the following locations:

15 Nevada State Business Center
16 Real Estate Division
17 3300 West Sahara Avenue, Suite 350
Las Vegas, NV 89102

18 If you would like an email containing this information, before the hearing, please contact Evelyn Pattee,
19 Commission Coordinator, at (702) 486-4074 or epattee@red.nv.gov.

20 **STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same**
21 **time as part of a regular meeting of the Commission that is expected to last from September 1,**
22 **2020, through September 3, 2020, but may end earlier if the business of the Commission is**
23 **concluded. Thus, your hearing may be continued until later in the day or from day to day. It is**
24 **your responsibility to be present when your case is called. If you are not present when your hearing**
25 **is called, a default may be entered against you and the Commission may decide the case as if all**
26 **allegations in the complaint were true. If you have any questions please call Evelyn Pattee,**
27 **Commission Coordinator (702) 486-4074.**

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1 YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting
2 under Nevada’s open meeting law, and may be attended by the public. After the evidence and arguments,
3 the commission may conduct a closed meeting to discuss your alleged misconduct or professional
4 competence. You are entitled to a copy of the transcript of the open and closed portions of the meeting,
5 although you must pay for the transcription.

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

12 You have the right to request that the Commission issue subpoenas to compel witnesses to testify
13 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate
14 the relevance of the witness’ testimony and/or evidence. Other important rights you have are listed in
15 NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.920.

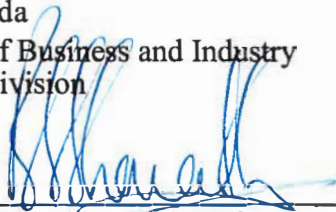
16 The purpose of the hearing is to determine if the Respondent has violated NRS 645 or NAC 645
17 and if the allegations contained herein are substantially proven by the evidence presented and to further

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1 determine what administrative penalty, if any, is to be assessed against the Respondent, pursuant to NRS
2 645.235 or NRS 645.230.

3 DATED this 30 day of July, 2020.

4 State of Nevada
5 Department of Business and Industry
6 Real Estate Division

7 By: 
8 SHARATH CHANDRA, Administrator
9 3300 West Sahara Avenue, Suite 350
10 Las Vegas, Nevada 89102

11 AARON D. FORD
12 Attorney General

13 By: /s/ Robert E. Werbicky
14 ROBERT E. WERBICKY (Bar No. 6166)
15 Deputy Attorney General
16 555 E. Washington Avenue, Suite 3900
17 Las Vegas, Nevada 89101
18 (702) 486-3326
19 Attorneys for Real Estate Division
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