

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,

7 Petitioner,

8 vs.

9 KENNETH WICKER,

10 Respondent.

Case No. 2018-1433

FILED

MAY 15 2020

REAL ESTATE COMMISSION

BY *Emily Patten*

11 **COMPLAINT AND NOTICE OF HEARING**

12 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY
13 OF THE STATE OF NEVADA (“Division”) hereby notifies KENNETH WICKER (“RESPONDENT”)
14 of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION
15 (“Commission”). The hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada
16 Revised Statutes (“NRS”) and Chapter 645 of the Nevada Administrative Code (“NAC”). The purpose
17 of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should
18 be subject to an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NRS
19 622.400, and the discipline to be imposed, if violations of law are proven.

20 **JURISDICTION**

21 RESPONDENT at all relevant times mentioned in this Complaint was licensed by the Division
22 as a salesperson. He is therefore subject to the jurisdiction of the Division and the Commission and the
23 provisions of NRS chapter 645 and NAC chapter 645.

24 **FACTUAL ALLEGATIONS**

25 1. RESPONDENT was licensed by the Division as a salesperson under license number S.0074835,
26 said license issued on November 8, 2006 and having now expired for nonrenewal on November 30, 2019.

27 2. On or around October 9, 2018, Rosanna Glueckert (“Complainant”) filed a complaint with the
28 Division stating that RESPONDENT was the realtor who represented her and her husband in the purchase
of a condominium unit in 2008, located at 3327 Erva St., Unit 114, Las Vegas, NV 89117 (the

1 “Property”).

2 3. Following Complainant’s purchase of the Property, she hired RESPONDENT to check on the
3 Property once a month and paid him \$25 dollars per month to do so because she and her husband primarily
4 lived at their residence in Chicago.

5 4. Complainant had not rented the Property since its purchase.

6 5. On or around May 26, 2018, RESPONDENT contacted Complainant and asked Complainant if
7 she would be willing to rent the Property for four days to a woman, stating that the woman had a child
8 and needed help.

9 6. Complainant agreed that RESPONDENT could rent the Property to the woman (“Renter”) for
10 three or four days.

11 7. On or around May 30th or May 31st of 2018, Complainant contacted RESPONDENT to see if the
12 Renter had vacated the Property.

13 8. At that time, RESPONDENT asked Complainant if the Renter could stay in the Property another
14 week.

15 9. Following the expiration of the following week, RESPONDENT again asked Complainant if the
16 Renter could stay in the Property another week.

17 10. Complainant told RESPONDENT that if the Renter desired to stay, she would need to pay the
18 rent owed as Complainant had yet to receive any rental payments.

19 11. The Renter remained in the Property until June 18, 2018.

20 12. During the time the Renter occupied the Property, Complainant did not receive rent.

21 13. While the Renter was occupying the Property, neighbors became concerned regarding who was
22 living in the Property and knocked on the door.

23 14. Complainant was informed that when a neighbor knocked on the door of the Property, the
24 RESPONDENT answered, and neighbors also informed Complainant that three kids were living there
25 with the Renter.

26 15. Thereafter, Complainant attempted to contact RESPONDENT several times to ask for her past
27 due rent and the keys to the Property.

28 16. In a text message to Complainant, RESPONDENT stated that he had received money from the

1 Renter but RESPONDENT failed to pay that money to either his broker or Complainant.

2 17. RESPONDENT evaded Complainant's calls and texts regarding the Renter and rent due.

3 18. When Complainant returned to the Property on October 3, 2018, she found the following: the
4 carpet was stained, drawers had been gone through, a safe had been gone through and \$4,000 dollars in
5 cash was missing, her car had been used and over 2,000 miles had been put on it.

6 18. Complainant called the police and filed a police report.

7 19. On October 11, 2018, the Division properly notified RESPONDENT that it opened an
8 investigation based on Complainant's complaint with the Division and requested a response from
9 RESPONDENT.

10 20. RESPONDENT did not respond to the Division.

11 21. On October 16, 2018, RESPONDENT's broker, Forrest Barbee ("Barbee") submitted an affidavit
12 to the Division in response to its investigation.

13 22. In his affidavit, Barbee stated that he had met with RESPONDENT on October 15, 2018.

14 23. Barbee stated that at their October 15th meeting, RESPONDENT admitted to him that he had
15 been conducting unlicensed property management services for Complainant since 2008 and had been
16 receiving \$25 dollars a month since Complainant purchased the Property.

17 24. RESPONDENT admitted to Barbee that the woman living in Complainant's Property was
18 RESPONDENT's girlfriend and that she had lived in the Property for several weeks despite not having
19 permission to do so and not paying rent.

20 25. RESPONDENT denied to Barbee that he had gone through Complainant's personal items or that
21 he had taken \$4,000 dollars in cash, but acknowledged that his girlfriend could have done so.

22 26. Following Barbee's meeting with RESPONDENT, Barbee terminated RESPONDENT from his
23 brokerage, had an agreement with RESPONDENT that RESPONDENT would hand carry his license to
24 the Division to place it on inactive status pending the Division's investigation, and that RESPONDENT
25 would self-report his actions to the Division.

26 27. RESPONDENT did not surrender his license to the Division or self-report his dealings with
27 Complainant to the Division.

28 28. On February 11, 2019, the Division issued RESPONDENT a Cease and Desist Order, ordering that

1 RESPONDENT cease and desist from engaging in certain real estate activities requiring a license or
2 permit from the Division, as RESPONDENT's license was inactive and he never held a property
3 management permit.

4 29. On February 25, 2019, the Division properly notified RESPONDENT it was commencing
5 disciplinary action against him by filing a Complaint against him before the Nevada Real Estate
6 Commission.

7 **VIOLATIONS**

8 30. RESPONDENT violated NRS 645.230(1)(b) by managing and renting Complainant's Property
9 without holding a property management permit from the Division.

10 31. RESPONDENT violated NRS 645.630(1)(f) and (i) by acknowledging to Complainant that he
11 had received \$300 from the Renter but failing to turn the money over to Complainant or his broker.

12 32. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(7) by renting Complainant's
13 Property without obtaining a lease agreement.

14 33. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(11)(b) by failing to
15 respond to the Division's investigation.

16 34. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(7) by accepting
17 approximately \$2,250 dollars from Complainant to provide property management services for the
18 Property without obtaining an executed property management agreement.

19 35. RESPONDENT violated NAC 645.640(1)(a) by failing to disclose to Complainant and his broker
20 his relationship to the Renter.

21 **DISCIPLINE AUTHORIZED**

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

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

1 3. Therefore, the Division requests that the Commission take such disciplinary action as
2 it deems appropriate under the circumstances.

3 **NOTICE OF HEARING**

4 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
5 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
6 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

7 **THE HEARING WILL TAKE PLACE on June 16, 2020 commencing at 9:00 a.m., or as**
8 **soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing**
9 **at 9:00 a.m. through June 18, 2020, or earlier if the business of the Commission is concluded. The**
10 **Commission meeting will be held on June 16, 2020, at the Nevada State Business Center, 3300 West**
11 **Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue**
12 **on June 17, 2020, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor –**
13 **Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on June 18, 2020, should**
14 **business not be concluded, starting at 9:00 a.m. at the Nevada State Business Center, 3300 West**
15 **Sahara Avenue, 4th Floor – Tahoe Room, Las Vegas, Nevada 89102.**

16 **STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same**
17 **time as part of a regular meeting of the Commission that is expected to last from June 16, 2020,**
18 **through June 18, 2020, or earlier if the business of the Commission is concluded. Thus, your**
19 **hearing may be continued until later in the day or from day to day. It is your responsibility to be**
20 **present when your case is called. If you are not present when your hearing is called, a default may**
21 **be entered against you and the Commission may decide the case as if all allegations in the complaint**
22 **were true. If you have any questions please call Evelyn Pattee, Commission Coordinator (702) 486-**
23 **4074.**

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

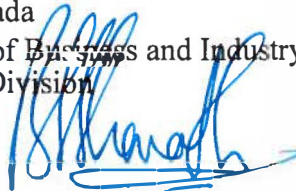
1 As the Respondent, you are specifically informed that you have the right to appear and be heard
2 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the
3 burden of proving the allegations in the complaint and will call witnesses and present evidence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

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

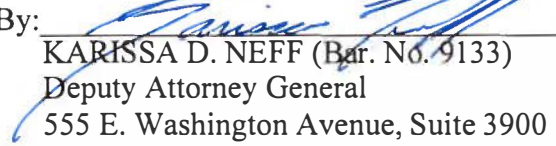
11 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
12 645 and if the allegations contained herein are substantially proven by the evidence presented and
13 to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
14 pursuant to NRS 645.235, 645.633 and or 645.630.

15 DATED this 5th day of May, 2020.

16 State of Nevada
17 Department of Business and Industry
18 Real Estate Division

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