

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Petitioner,

vs.

FREDERICK BRITTON,

Respondent.

Case No. 2018-161

FILED

MAY 15 2020

REAL ESTATE COMMISSION
BY *Evelyn Patten*

OPPOSITION TO RESPONDENT'S REQUEST FOR REHEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY
OF THE STATE OF NEVADA ("Division"), by and through its attorneys of record, Aaron D. Ford,
Attorney General, and Karissa D. Neff, Deputy Attorney General, brings this Opposition to
Respondent's Request for Rehearing.

Dated this 12th day of May, 2020.

AARON D. FORD
Attorney General

By: *Karissa D. Neff*
KARISSA D. NEFF (Bar. No. 9133)
Deputy Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
(702) 486-3894
Attorneys for Real Estate Division

1
2 **I. Background**

3 The complaint against Mr. Britton was filed with the Division on February 7, 2020, and was set
4 to be heard by the Commission at its meeting beginning on March 12, 2020. On February 24, 2020,
5 Frederick Britton ("RESPONDENT") contacted the Real Estate Commission Coordinator for the
6 Division and stated that he needed time to consult an attorney. The Real Estate Commission
7 Coordinator informed Mr. Britton that he needed to send an email requesting the continuance and
8 reference the case numbers he was seeking to continue, and also needed to state the reason for the
9 continuances. The Commission Coordinator informed Mr. Britton that once she received his formal
10 request for a continuance, she would forward it to the Secretary of the Commission for his decision.
11 Mr. Britton never sent the Commission Coordinator a formal request. Hence, the Secretary of the
12 Commission never approved the continuance of this case. After speaking to the Real Estate
13 Commission Coordinator on February 24th, RESPONDENT made no further efforts to contact the
14 Division or its counsel to confirm that this case had been continued.

15
16
17 Mr. Britton did not appear at the March 12, 2020 Commission hearing, and on March 31, 2020
18 a default judgment was entered against him. *See Exhibit "1."*

19
20 On April 14, 2020, Mr. Britton sent the attached email to the Commission Coordinator. *Exhibit*
21 *"2."* On May 4, 2020, Mr. Britton sent the attached email to Division Investigator, Daryl McCloskey,
22 and to the Division's attorney, Karissa D. Neff, requesting "another venue and or person for my
23 appeal" and requesting a rehearing. *Exhibit "3."*

24
25 The Division opposes RESPONDENT's request for a rehearing for the reasons set forth below.
26
27
28

II. Legal Argument

NAC 645.820 sets forth the procedures for a rehearing and provides that the following procedures are to be used for a rehearing in a case where a ruling or decision of the Commission is against the licensee. It provides as follows:

1. The licensee may **within 10 days after his or her receipt of the decision** petition the Commission for a rehearing.
2. The petition does not stay any decision of the Commission unless the Commission so orders.
3. The petition must state with particularity the point of law or fact which in the opinion of the licensee the Commission has overlooked or misconstrued and must contain every argument in support of the application that the licensee desires to present.
4. Oral argument in support of the petition is not permitted.
5. The Division may file and serve an answer to a petition for a rehearing within 10 days after it has received service of the petition.
6. If a petition for rehearing is filed and the Commission is not scheduled to meet before the effective date of the penalty, the Division may stay enforcement of the decision appealed from. When determining whether a stay is to be granted, the Division shall determine whether the petition was timely filed and whether it alleges a cause or ground which may entitle the licensee to a rehearing.
7. A rehearing may be granted by the Commission for any of the following causes or grounds:
 - (a) Irregularity in the proceedings in the original hearing;
 - (b) Accident or surprise which ordinary prudence could not have guarded against;
 - (c) Newly discovered evidence of a material nature which the applicant could not with reasonable diligence have discovered and produced at the original hearing; or
 - (d) Error in law occurring at the hearing and objected to by the applicant during the earlier hearing.
8. A petition for a rehearing may not exceed 10 pages of standard printing.
9. The filing of a petition for rehearing, or the decision therefrom, does not stop the running of the 30-day period of appeal to the district court from the date of the decision of the Commission for the purpose of subsection 2 of NRS 645.760.

A. The Division opposes RESPONDENT's request for rehearing because it is untimely.

1 The Division opposes RESPONDENT's request for a rehearing because it is untimely.
2 Pursuant to NAC 645.820, RESPONDENT's petition to request a rehearing was due to the Division on
3 April 14, 2020. RESPONDENT's Order in this case was mailed to him on March 31, 2020 and he
4 received it by certified mail on April 4, 2020. RESPONDENT did not submit his request for a
5 rehearing until May 4, 2020. *See Exhibit "3."* Accordingly, the Commission should deny
6 RESPONDENT's request for a rehearing because it is untimely.
7

8 **B. The Division opposes RESPONDENT's request for a rehearing because**
9 **RESPONDENT has failed to state with particularity the reasons why he should be granted a**
10 **rehearing.**
11

12 NAC 645.820 requires that a RESPONDENT's petition for a rehearing "state with particularity
13 the point of law or fact which in the opinion of the licensee the Commission has overlooked or
14 misconstrued and must contain every argument in support of the application that the licensee desires to
15 present."
16

17 Here, RESPONDENT's email is insufficient and fails to articulate any such law or fact to
18 support his request for a rehearing. *See Exhibit "3."* Instead, RESPONDENT merely blames the
19 Commission Coordinator for his own failure to follow instructions to properly obtain a continuance
20 from the Commission. Because RESPONDENT did not properly seek a formal continuance of this
21 case, the Commission did not grant its continuance. RESPONDENT made no further efforts after
22 February 24, 2020, when he first contacted the Commission Coordinator, to confirm with the Division
23 or its counsel that the Commission had continued his case.
24

25 RESPONDENT has also requested a "change of venue" for his case, insinuating that the
26 Commission Coordinator is somehow responsible for the default judgment being entered against him.
27 *See Exhibit "3."* The Division opposes this request because it is improper and the statutes and
28

1 regulations do not allow for RESPONDENT's case to be heard before a different venue. Also, the
2 Commission Coordinator is not a Commission member who votes on RESPONDENT's disciplinary
3 action so no conflict of interest exists as RESPONDENT alleges.

4 RESPONDENT has also referenced in his email that he would like someone else other than the
5 Commission Coordinator to "handle his appeal." *See Exhibit "3."* RESPONDENT conflates an appeal
6 and a request for a rehearing as one in the same. To the extent that RESPONDENT desires to file an
7 appeal, his request to the Commission is procedurally improper and must be denied. Should
8 RESPONDENT desire to appeal the Commission's decision, he is required to follow the procedure set
9 forth in NRS 233B. Under no circumstance is the Division responsible for bringing RESPONDENT's
10 appeal.
11

12
13 **C. RESPONDENT has failed to articulate a reason set forth in NAC 645.820(7) regarding**
14 **why the Commission should grant his request for a rehearing.**

15 Last, RESPONDENT has failed to articulate one reason why the Commission should grant his
16 request for a rehearing. NAC 645.820(7) sets forth the reasons when the Commission may grant a
17 respondent a rehearing and provides a rehearing may be granted due to:
18

- 19 (a) Irregularity in the proceedings in the original hearing;
20 (b) Accident or surprise which ordinary prudence could not have guarded against;
21 (c) Newly discovered evidence of a material nature which the applicant could not with
22 reasonable diligence have discovered and produced at the original hearing; or
23 (d) Error in law occurring at the hearing and objected to by the applicant during the earlier
24 hearing.

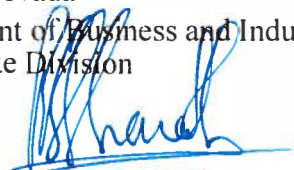
25 RESPONDENT has failed to set forth any reason that would permit the Commission to grant
26 him a rehearing under NAC 645.820(7). In actuality, RESPONDENT failed to take the appropriate
27 steps to obtain a continuance from the Commission, attempts to now blame the Commission
28 Coordinator for his own failure, and didn't bother taking any additional steps after February 24th to

1 confirm that the Commission had granted him a continuance for this case. The fact that
2 RESPONDENT's case proceeded as a default proceeding is due to RESPONDENT's refusal to submit
3 a formal request for the continuance to the Division for the Commission's approval. The default
4 proceeding was not a result of RESPONDENT not having proper notice of the proceeding or based on
5 the Commission or the Division falsely assuring him that the case had been continued. Rather, the case
6 proceeded as a default based on RESPONDENT's own neglect in failing to make a formal request for a
7 continuance and his failing to confirm that his request was granted.
8

9 Based on the foregoing, the Division respectfully requests that the Commission deny
10 RESPONDENT's request for a rehearing.

11 DATED this 12th day of May, 2020.

12
13 State of Nevada
14 Department of Business and Industry
15 Real Estate Division

16 By: 
17 SHARATH CHANDRA, Administrator
18 3300 West Sahara Avenue, Suite 350
19 Las Vegas, Nevada 89102

20 AARON D. FORD
21 Attorney General

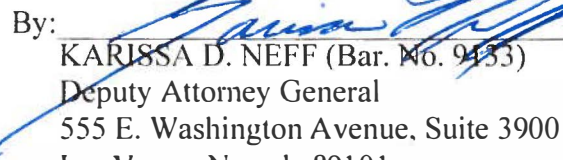
22 By: 
23 KARISSA D. NEFF (Bar. No. 9433)
24 Deputy Attorney General
25 555 E. Washington Avenue, Suite 3900
26 Las Vegas, Nevada 89101
27 (702) 486-3894
28 Attorneys for Real Estate Division

EXHIBIT "1"

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. 2018-161

FILED

MAR 31 2020

REAL ESTATE COMMISSION

BY *Evelyn Pattee*

Petitioner,

vs.

FREDERICK BRITTON,

Respondent.

FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

This matter came on for hearing before the Real Estate Commission, Department of Business and Industry, State of Nevada (the "Commission"), during a regular agenda on March 10, 2020, at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101 (the "Hearing"). RESPONDENT FREDERICK BRITTON (hereinafter, "RESPONDENT" or "BRITTON") did not appear. Karissa D. Neff, Esq., Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division").

Ms. Neff advised the Commission that RESPONDENT had contacted her prior to the Hearing and requested a continuance and was advised to request the continuance from the Division in writing.

Evelyn Pattee testified regarding notice sent to the RESPONDENT. The Commission found appropriate service of the notice of the Hearing was made.

RESPONDENT did not properly request a continuance of the Hearing from the Division.

After hearing testimony presented in this matter and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law, and Order by default against RESPONDENT as follows:

///

///

///

FINDINGS OF FACT

The Commission, by unanimous vote, based upon evidence presented during the Hearing, enters a finding of the following facts by default:

1. RESPONDENT has been licensed as a salesperson under license number S.0175080 since July 3, 2014, said license currently being on inactive status.

2. On or around January 30, 2018, Wendell E. Thomas ("Complainant") filed a complaint with the Division alleging that on or around January 22, 2018, RESPONDENT agreed to represent him in the purchase of a residential property.

3. RESPONDENT sent Complainant a total of four property listings.

4. On or around January 24, 2018, RESPONDENT contacted Complainant and requested that Complainant provide him with a cashier's check in the amount of \$1,250 dollars to be used as an earnest money deposit in the event Complainant desired to purchase any of the properties.

5. That same day Complainant met RESPONDENT at a credit union.

6. RESPONDENT directed Complainant to have the credit union issue the cashier's checks made payable to GGGH&P LLC, a Nevada limited liability company ("GGGH&P").

7. RESPONDENT had the credit union issue one cashier's check in the amount of \$1,000 dollars and one in the amount of \$250 dollars (collectively, the "Cashiers Checks"), both payable to GGGH&P.

8. RESPONDENT was a manager of GGGH&P.

9. On January 25, 2018, Complainant met RESPONDENT at the address of one of the four property listings RESPONDENT provided to him- 1300 Arlington Street, Las Vegas, NV 89104 ("Arlington Property").

10. Complainant asked RESPONDENT to make an offer on the Arlington Property.

11. RESPONDENT informed Complainant that he would prepare the paperwork to submit Complainant's offer on the Arlington Property and would email the offer to Complainant for his signature.

12. Later that week Complainant contacted RESPONDENT regarding the status of the offer on the Arlington Property and also asked RESPONDENT if he could view another property.

1 13. RESPONDENT texted Complainant that he had been in a class and would call him back.

2 14. Despite repeated attempts at contacting RESPONDENT, Complainant never heard back
3 from RESPONDENT.

4 15. In the meantime, Complainant informed his loan officer that he had given the Cashiers
5 Checks to RESPONDENT and that RESPONDENT had failed to return his calls regarding whether an
6 offer had been made on the Arlington Property.

7 16. The loan officer advised Complainant to contact the bank to determine if the Cashier's
8 Checks were cashed.

9 17. The bank informed Complainant that the Cashier's Checks made payable to GGGH&P
10 had been cashed and that GGGH&P belonged to RESPONDENT.

11 18. On or around February 2, 2018, the Division properly gave notice to RESPONDENT that
12 it had opened an investigation regarding Complainant's complaint with the Division and requested
13 responses from RESPONDENT and RESPONDENT's broker.

14 19. In response to the Division's letter, RESPONDENT claimed that the Cashier's Checks he
15 cashed and kept from Complainant were not for an earnest money deposit in connection with Claimant's
16 purchase of residential real estate.

17 20. Rather, RESPONDENT claimed that the Cashier's Checks were to pay RESPONDENT
18 for the sale of Vietnamese currency called Dong to Complainant.

19 21. RESPONDENT's broker, Jaime A. Velez ("Velez"), also responded to the Division's
20 February 2, 2018 letter.

21 22. In Velez's response to the Division, Velez claimed that the Division's investigation
22 involved RESPONDENT's prior broker- not Velez.

23 23. In his response to the Division, Velez also stated that on or around January 30, 2018, he
24 received a text from AmeriFirst Financial ("AmeriFirst") depicting the events that had transpired as
25 alleged in Complainant's complaint with the Division.

26 24. Velez advised AmeriFirst that Complainant should file a formal complaint with the
27 Division.

25. In his response to the Division, Velez also stated that because the Greater Las Vegas Real Estate Association had advised Velez that RESPONDENT had failed to pay his dues (which Velez stated RESPONDENT always had difficulty doing), and after communicating with AmeriFirst, Velez sent RESPONDENT's license to the Division.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact by default, the Commission concludes by unanimous vote that RESPONDENT has committed the following violations of law by default:

26. RESPONDENT violated NRS 645.633(1)(i) by engaging in deceitful, fraudulent or dishonest dealings by misleading Complainant into issuing the Cashier's Checks to RESPONDENT's personal business entity, claiming that they were to be used as an earnest money deposit in connection with Complainant's purchase of a residential property. RESPONDENT then kept the money, despite not making any offer on any residential property on Complainant's behalf or entering into any purchase agreement on Complainant's behalf.

ORDER

The Commission, being fully apprised in the premises, and good cause appearing to the Commission, by unanimous vote, ORDERS as follows:

1. RESPONDENT shall pay the Division's costs in the amount \$1,111.80 ("Amount Due"). The Amount Due shall be payable to the Division within 30 days of the effective date of this Order.

2. RESPONDENT's salesperson license (license number S.0175080) is hereby revoked.

3. The Division may institute debt collection proceedings for failure to timely pay the Amount Due, including action to reduce this Order to a judgment. Further, if collection goes through the State of Nevada, then RESPONDENT shall also pay the costs associated with collection.

111

///

111

111

1 4. The Commission retains jurisdiction for correcting any errors that may have occurred in the
2 drafting and issuance of this document.

3 5. This Order shall become effective on the 30th day of April 2020.

4 DATED this 31st day of March, 2020.

5 REAL ESTATE COMMISSION
6 STATE OF NEVADA

7 By: 
8 President, Nevada Real Estate Commission

9 Submitted by:

10 AARON D. FORD
11 Attorney General


12 By: 
13 Karissa D. Neff, Esq.
14 Deputy Attorney General
15 555 E. Washington Avenue, Suite 3900
16 Las Vegas, Nevada 89101
17 (702) 486-3894
18 Attorneys for Nevada Real Estate Division
19
20
21
22
23
24
25
26
27
28

EXHIBIT “2”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9:01



< Inbox

Frederick Britton



3500 W. Sahara Avenue, Suite 350

Las Vegas, NV 89102

702-486-4074

epattee@red.nv.gov

<http://red.nv.gov/>

From: F Britton <fdbrit50@gmail.com>

Sent: Tuesday, April 14, 2020 3:12 PM

To: Evelyn Pattee <EPattee@red.nv.gov>

Subject: Frederick Britton

Hi Evelyn: I Just received my mail from the mailing facility and I am stunned to see a judgement from the Real Estate Division. We had a deal to continue my case until June.

You fined me over 17,000.00 & Revoked my license without giving me a day in court this has got to be the most bias, racist, evil thing you could have done. You didn't bother to see whether i was alive or dead.

I demand the you make me whole like i was before this Judgement and give me my day in court like we agreed.

I am a Man of God (sowing & reaping) if i'm not made I will ask God to Revoke your license & give you a ridiculous fine. And if you don't believe i have that kind of relation with God. TRY ME !!!!!

Give me my day in COURT !!!!!

Thanks Fred



EXHIBIT “3”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

From: Karissa D. Neff KNeff@ag.nv.gov
Subject: FW: Rehearing Appeal CS#'s 2018-161 & 2017-2125
Date: May 8, 2020 at 10:58:51 AM
To: karissadneff@gmail.com

From: F Britton [<fdbrit50@gmail.com>](mailto:fdbrit50@gmail.com)
Sent: Monday, May 4, 2020 1:39 PM
To: Daryl McCloskey [<dmccloskey@red.nv.gov>](mailto:dmccloskey@red.nv.gov); Karissa D. Neff [<KNeff@ag.nv.gov>](mailto:KNeff@ag.nv.gov)
Subject: Rehearing Appeal CS#'s 2018-161 & 2017-2125

Dear Sir/Madam: I requesting another venue and or person for my appeal because the person whose negligence cause my revocation is handling my appeal. THIS IS A CLEAR CONFLICT OF INTEREST.

Please see attached & forward new venue or person too handle my appeal.

Thanks Fred



Frederick Britton

**Case# 2018-161 & Case# 2017-2125
3053 W Craig Rd Bldg E # 258
N. Las Vegas, NV 89032**

4/30/2020

**Evelyn Pattee
Real Estate Commission Coordinator
Nevada Real Estate Division
3300 W Sahara Ave Suite 350
Las Vegas,NV 89102**

Dear Sir/Madam: I formally request a rehearing and to be made whole prior to this mishap.

- 1. I called Daryl McCloskey to ask him for a continuation because the mailbox where I received my mail signed for the certified mail before I actually had possession. While on the phone with Daryl he emailed Eveyln Pattee & myself of my intentions.
February 24 2020 2:16 pm ref email From Frederick Britton to Daryl McCloskey to Eveyln Pattee & Frederick Britton**
- 2. February 24 2020 2:26 pm I called Evelyn explaining the situation regarding the mail. While on the phone before the call was made to Karrissa Neff with (me on hold) We had a deal. The email was sent to her while on the phone requesting a continuance Feb 24, 2020 3:19 pm.**

3. There was no active ill will on my part .
4. I made the formal request. I should be reheard.
5. I may have forgotten to include the case #'s by accident but the request was made and i should have gotten a phone call or correspondence something the same day or the next day alerting of the error.

Thanks Frederick Birtton