

FILED

MAR 11 2021

REAL ESTATE COMMISSION  
BY *Evelyn P. Lee*

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Petitioner,

vs.

Nicholas Devitte.

Respondent.

Case No. 2019-823

**STIPULATION AND ORDER  
FOR SETTLEMENT  
OF DISCIPLINARY ACTION**

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator Sharath Chandra ("Petitioner"), by and through their attorney of record, Karissa D. Neff, Senior Deputy Attorney General, and Nicholas Devitte ("RESPONDENT").

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

**SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT**

1. RESPONDENT was licensed by the Division as a broker under license number B.0144565.LLC, issued on September 22, 2017, said license being in "active" status at the time of filing this Complaint.

2. On July 19, 2019, the Division received a complaint from Esrin Caad ("Complainant") stating that his adult daughter, Brenda Allen-Caad (also referred to as Brenda Caad-Allen) (hereinafter "Cadd-Allen"), had entered into a purchase agreement to sell his residential property, Clark County Assessor's Parcel No. 139-16-410-092, commonly known as 2519 West Street, North Las Vegas, NV 89032 ("Property"), without his knowledge or consent for a fraction of its value.

3. Complainant stated in his complaint that he was elderly, left his Property to receive medical

1 treatment, and had been paying Cadd-Allen to upkeep the Property.

2 4. Complainant stated that Cadd-Allen had no legal right to the Property.

3 5. During its investigation the Division obtained an Exclusive Authorization and Right to Sell,  
4 Exchange or Lease Brokerage Listing Agreement ("Listing Agreement") commencing on April 22,  
5 2019 granting Forever Home Realty (RESPONDENT's brokerage) the right to sell the Property for a  
6 listing price of \$60,000.00, entered into between Cadd-Allen as seller and Forever Home Realty as  
7 broker.

8 6. The Listing Agreement was signed by RESPONDENT on behalf of Forever Home Realty  
9 brokerage and by his real estate agent Shaun McDonald ("McDonald").

10 7. The purchase price of \$60,000.00 set forth in the Listing Agreement was below value according  
11 to estimates which valued the Property between \$128,793.00 and \$186,576.00.

12 8. On April 22, 2019, Cadd-Allen entered into a purchase agreement to sell the Property to Cap  
13 Solutions, LLC for \$60,000.00 on Complainant's behalf that had a closing date of May 24, 2019.

14 9. An MLS sheet provided by the Complainant dated June 20, 2019 listed the Property as under  
15 contract/no showings and contingent/pending/sold with an acceptance date of May 22, 2019.

16 10. After receiving Complainant's complaint with the Division, the Division opened an  
17 investigation and properly notified RESPONDENT of it on July 24, 2019.

18 11. McDonald responded to the Division's investigation and stated in part, Complainant instructed  
19 him to speak to Cadd-Allen who had power of attorney over the Property, that he did so, and set up a  
20 meeting with Cadd-Allen on April 20, 2019, where Cadd-Allen provided him proof she had power of  
21 attorney.

22 12. McDonald further stated in his response to the Division that he then proceeded to create a listing  
23 agreement for the Property, determined the Property needed to proceed as a short sale, that he found a  
24 buyer for the Property, and proceeded to open escrow and a short sale file.

25 13. The power of attorney obtained by the Division during its investigation was signed by  
26 Complainant on March 22, 2018, and gave power of attorney to Cadd-Allen over certain matters of  
27 Complainant's, but did not give Cadd-Allen power of attorney over Complainant's real property.

28 14. A subsequent power of attorney was obtained by the Division during its investigation signed by

1 Complainant and was dated May 24, 2019, with an effective date of May 24, 2019, that purported to  
2 give Caad-Allen power of attorney for all matters specified in the power of attorney document,  
3 including power of attorney over real property.

4 15. At the time RESPONDENT's brokerage entered into the Listing Agreement with Caad-Allen  
5 and accepted an offer on the Property, RESPONDENT had no power of attorney that authorized his  
6 brokerage or agent to proceed with the transaction to sell the Property on the owner's (Complainant's)  
7 behalf through Caad-Allen.

8 16. Complainant stated in his complaint to the Division that on May 24, 2019, Caad-Allen and  
9 "some real estate people" came to his bedside and may have had him sign something but could not  
10 recall what it was.

11 17. Complainant stated that on or around June 13, 2019, he first learned from his attorney that the  
12 Property was sold, pending approval of the short sale.

13 18. On June 26, 2019, Complainant, through his attorney, filed a complaint in the Eighth Judicial  
14 District Court to stop the sale of the Property.

15 19. The sale of the Property did not close.

16 20. McDonald stated in his response to the Division's investigation, that after he received a letter  
17 from Complainant's attorney, he discontinued the process of selling the Property and removed the  
18 listing.

19 21. RESPONDENT responded to the Division's investigation.

20 22. RESPONDENT stated that Complainant was in hospice and had given power of attorney to  
21 Caad-Allen, that the Property was in default and had no equity, and Caad-Allen had executed a  
22 purchase contract with buyer Tyson Delacruz to begin the short sale process with the bank.

23 23. RESPONDENT further stated that the Property had not been sold and that he would withdraw  
24 the listing.

25 24. The Division properly notified RESPONDENT on November 14, 2019 that it intended to  
26 commence disciplinary action against him by filing a complaint for hearing before the Nevada Real  
27 Estate Commission.

1                   **SUMMARY OF VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

2   25.   RESPONDENT violated NRS 645.252(1)(a) by failing to disclose to the parties to the  
3 transaction that Caad-Allen had no authority to list and sell the Property because Complainant had not  
4 given her power of attorney to do so, which RESPONDENT knew, or should have known, through the  
5 exercise of reasonable care and diligence.

6   26.   RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605 (1). and (2) by engaging  
7 in dishonest, deceitful, or fraudulent conduct by failing to protect the public against fraud.  
8 misrepresentation or unethical practices, and by failing to ascertain all pertinent facts by listing the  
9 Property for sale below market value when he knew, or should have known, the transaction was being  
10 done without the owner's knowledge or consent.

11   27.   RESPONDENT violated NRS 645.635(1) by offering the Property for sale without the  
12 knowledge and authorization of Complainant.

13   28.   RESPONDENT violated NRS 645.660(3) because he knew, or should have known, that  
14 McDonald improperly listed the Property for sale below market value without the owner's knowledge  
15 or consent.

16                   **PROPOSED SETTLEMENT**

17         In an effort to avoid the time and expense of litigating these issues before the  
18 Commission, the parties desire to compromise and settle the instant controversy upon the  
19 following terms and conditions:

20         1. RESPONDENT agrees to pay the Division a total amount of \$11,000.00  
21 ("Amount Due"), consisting of a \$10,000.00 fine imposed by the Division and the  
22 Division's pre-hearing costs and attorneys' fees in the amount of \$1,000.00.

23         2. The Amount Due shall be payable to the Division as follows: RESPONDENT  
24 shall pay \$3,000.00 within 30 days of date of the order approving this Stipulation.  
25 Thereafter, beginning on May 1, 2021 and due on the 1<sup>st</sup> day of each month thereafter.  
26 RESPONDENT shall pay the Division \$1,000.00 until the Amount Due is paid in full.

27         3. RESPONDENT shall also complete 9 hours of Division approved education in  
28 broker management and 6 hours of Division approved education in ethics, within four

1 months of the date of the order approving this Stipulation, which hours shall not count  
2 towards the education necessary for RESPONDENT's license renewal.

3 4. RESPONDENT and the Division agree that by entering into this Stipulation, the  
4 Division does not concede any defense or mitigation RESPONDENT may assert and that  
5 once this Stipulation is approved and fully performed, the Division will close its file in  
6 this matter.

7 5. RESPONDENT agrees and understands that by entering into this Stipulation,  
8 RESPONDENT is waiving his right to a hearing at which RESPONDENT may present  
9 evidence in his defense, his right to a written decision on the merits of the complaint, his  
10 rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other  
11 rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada  
12 Real Estate Brokers and Salespersons statutes and accompanying regulations, and the  
13 federal and state Constitutions. RESPONDENT understands that this Agreement and  
14 other documentation may be subject to public records laws. The Commission members  
15 who review this matter for approval of this Stipulation may be the same members who  
16 ultimately hear, consider, and decide the Complaint if this Stipulation is either not  
17 approved by the Commission or is not timely performed by RESPONDENT.  
18 RESPONDENT fully understands that he has the right to be represented by legal counsel  
19 in this matter at his own expense.

20 6. Each party shall bear their own attorney's fees and costs, except as provided  
21 above.

22 7. Approval of Stipulation. Once executed, this Stipulation will be filed with the  
23 Commission and will be placed on the agenda for approval at its next public meeting.  
24 The Division will recommend to the Commission approval of the Stipulation.  
25 RESPONDENT agrees that the Commission may approve, reject, or suggest amendments  
26 to this Stipulation that must be accepted or rejected by RESPONDENT before any  
27 amendment is effective.

28 8. Withdrawal of Stipulation. If the Commission rejects this Stipulation or

1 suggests amendments unacceptable to RESPONDENT, RESPONDENT may withdraw  
2 from this Stipulation, and the Division may pursue its Complaint before the Commission.  
3 This Stipulation then shall become null and void and unenforceable in any manner  
4 against either party.

5 9. Release. In consideration of the execution of this Stipulation, RESPONDENT  
6 for himself, his heirs, executors, administrators, successors, and assigns, hereby releases,  
7 remises, and forever discharges the State of Nevada, the Department of Business and  
8 Industry, and the Division, and each of their respective members, agents, employees, and  
9 counsel in their individual and representative capacities, from any and all manner of  
10 actions, causes of action, suits, debts, judgments, executions, claims, and demands  
11 whatsoever, known and unknown, in law or equity, that RESPONDENT ever had, now  
12 has, may have, or claim to have against any or all of the persons or entities named in this  
13 section, arising out of or by reason of the Division's investigation, this disciplinary action,  
14 and all other matters relating thereto.

15 10. Indemnification. RESPONDENT hereby agrees to indemnify and hold  
16 harmless the State of Nevada, the Department of Business and Industry, Petitioner, the  
17 Division, and each of their respective members, agents, employees, and counsel, in their  
18 individual and representative capacities, against any and all claims, suits, and actions  
19 brought against said persons and/or entities by reason of the Division's investigation, this  
20 disciplinary action, and all other matters relating thereto, and against any and all  
21 expenses, damages, and costs, including court costs and attorney fees, which may be  
22 sustained by the persons and/or entities named in this section as a result of said claims,  
23 suits, and actions.

24 11. Default. In the event of default under this Stipulation, RESPONDENT agrees  
25 that his license shall be immediately suspended, and the unpaid balance of the  
26 administrative fine and costs, together with any attorneys' fees and costs that may have  
27 been assessed, shall be due in full to the Division within ten calendar days of the date of  
28 default. Debt collection actions for unpaid monetary assessments in this case may be

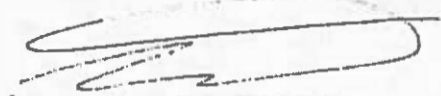
instituted by the Division or its assignee.

12. RESPONDENT has signed and dated this Stipulation only after reading and understanding all terms herein.

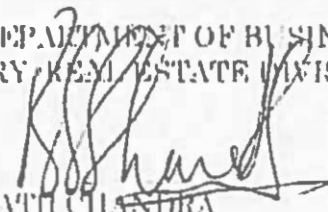
DATED this 24 day of February, 2021. DATED this 24 day of February, 2021.

NEVADA DEPARTMENT OF BUSINESS  
& INDUSTRY REAL ESTATE DIVISION

By:

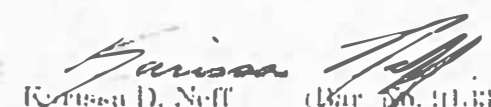
  
NICHOLAS DENTITE

By:

  
SHARATH CHANDRA  
Administrator

AARON D. FORD  
Attorney General

By:

  
Karissa D. Neff (Bar No. 11133)  
Senior Deputy Attorney General  
555 E. Washington Avenue, Suite 3900  
Las Vegas, NV 89101  
Attorney for Real Estate Division

### ORDER

IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary Action, submitted by Petitioner and Respondent, is approved in full.

Dated: March 11, 2021

REAL ESTATE COMMISSION  
STATE OF NEVADA

By:

  
President, Nevada Real Estate Commission

1 Submitted by:

2  
3 AARON FORD, Attorney General

4  
5 By:

*/s/ Karissa Neff*

6 Karissa D. Neff

7 Senior Deputy Attorney General  
8 555 E. Washington Ave. Ste 3900  
9 Las Vegas, Nevada 89101  
10 Attorneys for Real Estate Division  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28