

FILED

DEC 16 2021

REAL ESTATE COMMISSION

BY *Emily Patten*

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BEFORE THE REAL ESTATE COMMISSION
STATE OF NEVADA

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

Case No. 2020-486

Petitioner,

vs.

DAVID HOWIE,

Respondent.

STIPULATION 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, Deputy Attorney General Matthew Feeley and David Howie ("RESPONDENT").

JURISDICTION

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 provisions of NRS and NAC 645.

FACTUAL ALLEGATIONS

1. At all times relevant, Respondent did not hold a valid Nevada real estate license.
2. On or about December 14, 2020, the Division received a complaint/statement of fact from Jonathan Schaff, the prospective purchaser (Complainant) of the real property located at 337 Barton Court, Stateline, NV 89449 (337 Barton).
3. The complaint alleged that Respondent engaged in unlicensed real estate activities in the State of Nevada involving 337 Barton.

1 4. On April 13, 2021, the Division's investigator emailed Respondent concerning
2 the transaction for 337 Barton.

3 5. On April 13, 2021, Respondent sent the Division's investigator a response
4 indicating he was not a licensed broker in Nevada.

5 6. The sellers of 337 Barton signed an Exclusive Right to Sell Contract with
6 Anthony Laurian (BS. 0013406) on September 21, 2018.

7 7. The terms of the Exclusive Right to Sell Contract included a sales price for
8 the property of \$949,000.

9 8. On March 25, 2019, Respondent, a California Real Estate Broker, emailed
10 Anthony Laurian on behalf of the Complainant and submitted a Letter of Intent for the
11 Complainant to purchase 337 Barton.

12 9. Respondent's email included proof of the Complainant's funds to complete the
13 transaction, a credit report for the Complainant, and a mortgage loan pre-approval letter.

14 10. On March 26, 2019, Anthony Laurian emailed a Residential Offer and
15 Acceptance Agreement to Respondent, which was based upon the terms included in the
16 Letter of Intent.

17 11. Anthony Laurian's March 26, 2019, email to Respondent indicated that "I left
18 the DO and CTA blank for you to fill in."

19 12. On March 26, 2019, Respondent emailed Anthony Laurian and stated he
20 would need a "referral fee agreement" and he would be the Complainant's "liaison moving
21 forward."

22 13. Respondent's March 26, 2021, email to Anthony Laurian also requested
23 Anthony Laurian to complete the Duties Owed by a Nevada Real Estate Licensee and the
24 Consent to Act "forms unless that's allowed in Nevada to have an out of state broker fill
25 that out."

26 14. Respondent and Anthony Laurian signed a California Association of Realtors
27 Referral Fee Agreement dated March 27, 2019, that would pay Respondent "2.5% of the
28 final gross sales prices."

1 15. On March 27, 2019, Anthony Laurian emailed Respondent and stated “[y]ou
2 are representing” the Complainant “throughout this transaction, including inspections and
3 any and all communications with title.”

4 16. On March 28, 2019, the Respondent sent the Complainant’s DocuSigned copy
5 of the Offer and Acceptance for 337 Barton back to Anthony Laurian.

6 17. The Buyer’s Representation section of the March 28, 2019, Residential Offer
7 and Acceptance Agreement was left blank.

8 18. On March 29, 2019, Anthony Laurian emailed Respondent the sellers’ signed
9 acceptance.

10 19. On March 29, 2019, the Respondent emailed the escrow officer’s assistant and
11 asked for wiring instructions to be sent to the Complainant.

12 20. Respondent’s March 29, 2019, email requested a copy of the preliminary title
13 report and earnest money deposit receipt so that he could continue to assist the
14 Complainant throughout the transaction.

15 21. On April 3, 2019, Anthony Laurian emailed Respondent and Complainant the
16 sellers’ Real Property Disclosure and Mold Disclosure.

17 22. On April 3, 2019, Respondent emailed the escrow officer and asked that the
18 earnest money deposit and preliminary title report be sent to the Complainant’s lender.

19 23. On April 12, 2019, Respondent emailed a copy of the home inspection report
20 to Anthony Laurian.

21 24. Respondent’s April 12, 2019, email also indicated that he “plan on bringing a
22 handy man to bid out the recommended repairs on the home inspection.”

23 25. Respondent’s April 12, 2019, email also indicated that “Rob at west coast can’t
24 order the appraisal until the loan has been submitted to underwriting with the new
25 contract date. So depending on when the appraisal can be assigned we will probably need
26 more time for that.”

27 26. On April 14, 2019, Anthony Laurian emailed Respondent an addendum to the
28 purchase agreement.

1 27. On April 15, 2019, Respondent sent the Complainant's DocuSigned copy of the
2 addendum back to Anthony Laurian.

3 28. On April 16, 2019, Anthony Laurian emailed Respondent the sellers' signed
4 addendum.

5 29. On April 18, 2019, Respondent emailed the pest inspection company with
6 instructions to provide a copy of the completed report to Anthony Laurian.

7 30. On April 18, 2019, Anthony Laurian emailed Respondent and stated the
8 purchase agreement timelines had not been met and the Complainant could lose his
9 deposit.

10 31. Anthony Laurian's April 18, 2019, email also stated that Respondent's actions
11 had placed his client, the Complainant, "in a precarious position."

12 32. On April 18, 2019, Anthony Laurian emailed the Complainant and stated he
13 regretted having to contact him directly, bypassing the Respondent, "but it is necessary
14 because none of the timelines of this transaction have been met[.]"

15 33. Anthony Laurian followed up his April 18, 2019, email to the Complainant
16 and advised him to "request an extension . . . to present your request for repairs."

17 34. Anthony Laurian continued to communicate directly with the Complainant on
18 April 18-19, 2019, regarding the extension and opening the house to showings.

19 35. On April 22, 2019, Respondent emailed Anthony Laurian to negotiate the cost
20 of repairs needed for 337 Barton.

21 36. On April 22, 2019, Anthony Laurian emailed Respondent and requested
22 Respondent to contribute \$1,500.00 from the referral fee to the transaction before Anthony
23 Laurian presented the property repair request to the sellers.

24 37. On April 22, 2019, Respondent emailed Anthony Laurian and stated that his
25 work "was being drastically discounted already" and he would be willing to contribute \$500
26 to the transaction."
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1 38. On April 22, 2019, Anthony Laurian emailed Respondent and asked if the
2 Complainant would be willing to increase the earnest money deposit by \$10,000.00 and
3 agree to a 30-day escrow with no contingencies.

4 39. On April 22, 2019, Respondent emailed Anthony Laurian and stated he
5 believed the Complainant would agree to increase his earnest money deposit by \$10,000
6 and agree to a 30-day escrow and would likely waive an appraisal contingency but would
7 require a financing contingency.

8 40. On April 22, 2019, the Complainant, and the sellers of 337 Barton executed a
9 new Residential Offer and Acceptance Agreement which identified Respondent as the
10 buyer's agent for the Complainant.

11 41. On May 28, 2019, the Complainant emailed Respondent and Anthony Laurian
12 with terms for cancelling the transaction.

13 42. On May 29, 2019, Anthony Laurian emailed the Complainant and attempted
14 to negotiate a settlement between the sellers and the Complainant regarding the earnest
15 money deposit funds.

16 43. On May 5, 2021, the Division sent Respondent an NRS 233B letter indicating
17 that the Division's investigation had obtained sufficient evidence to commence disciplinary
18 action by filing a complaint with the Commission.

19 **VIOLATIONS ALLEGED**

20 The Division alleges that RESPONDENT has committed the following violations of law:

21 44. Respondent violated NRS 645.230(1)(a) for acting in the capacity of a real
22 estate broker in the State of Nevada without first obtaining a broker's license from the Real
23 Estate Division.

24 **PROPOSED STIPULATION AGREEMENT**

25 45. In an effort to avoid the time and expense of litigating these issues before the
26 Commission, the parties desire to compromise and settle the instant controversy upon the following terms
27 and conditions:

28 a. RESPONDENT agrees to pay \$5,206.16 to the Division within four (4) months of

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the date of the Commission's order approving this stipulation. The amount includes a \$4,000 fine and \$1,206.16 to cover the Division's investigatory costs and fees.

b. RESPONDENT's full amount will be paid in equal monthly installments of \$1,301.54 per month to the Division for four (4) months beginning on January 1, 2022. RESPONDENT may choose to pay the full amount sooner than four months.

46. RESPONDENT and the Division agree that by entering into this Stipulation, the Division does not concede any defense or mitigation RESPONDENT may assert and that once this Stipulation is approved and fully performed, the Division will close its file in this matter. Nothing herein prevents proof and giving consideration to acts complained of in this matter in determining or penalizing a future violation by RESPONDENT of any provision of NRS Chapter 645 or NAC Chapter 645.

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

48. Each party shall bear its or his own attorney's fees and costs, except as provided above.

49. Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission and will be placed on the agenda for approval at its next public meeting. The Division will recommend to the Commission approval of the Stipulation. RESPONDENT agrees that the Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by

1 RESPONDENT before any amendment is effective.

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

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

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

22 53. Default. In the event of default, RESPONDENT agrees that his license shall be
23 immediately suspended, and the unpaid balance of the administrative fine and costs, together with any
24 attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten
25 calendar days of the date of default. Debt collection actions for unpaid monetary assessments in this case
26 may be instituted by the Division or its assignee.

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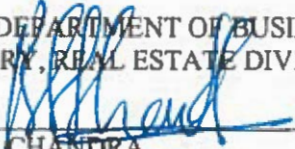
54. RESPONDENT has signed and dated this Stipulation only after reading and understanding all terms herein.

DATED this 13th day of December, 2021

DATED this 13 day of December, 2021.

By: 

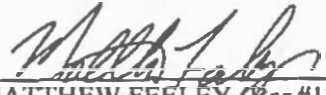
DAVID HOWIE

NEVADA DEPARTMENT OF BUSINESS
& INDUSTRY, REAL ESTATE DIVISION
By: 

SHARATH CHANDRA
Administrator

Approved as to form:

AARON D. FORD
Attorney General

By: 

MATTHEW FEELEY (Bar #13336)
Deputy Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, NV 89101

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ORDER APPROVING STIPULATION

The Stipulation for Settlement of Disciplinary Action having come before the Real Estate Commission, Department of Business and Industry, State of Nevada, during its regular agenda on December 14, 2021, and the Commission being fully apprised of the terms and good cause appearing,

IT IS ORDERED that the Stipulation for Settlement of Disciplinary Action in this matter is approved in full.

This Order shall become effective on the 14 day of December 2021.

Dated this 16 day of December 2021.

NEVADA REAL ESTATE COMMISSION

By: 

[Print Name]

Spiridon Filias

Commission President