

FILED

SEP 21 2021

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

REAL ESTATE COMMISSION

BY Emily Battle

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

Case No. 2019-781

Petitioner,

STIPULATION AND ORDER
FOR SETTLEMENT
OF DISCIPLINARY ACTION

vs.

PHILIP M. MARCUS,

Respondent.

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 Philip M. Marcus ("RESPONDENT").

RESPONDENT at all relevant times mentioned in this Complaint was licensed as a broker salesperson by the Division, and, although not holding a property management permit from the Division, conducted activities for which such a permit is required. 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 COMPLAINT

1. RESPONDENT is licensed by the Division as a broker salesperson, BS.0044249, said license being in "active" status at the time of filing this complaint.

2. At all relevant times alleged in the complaint, RESPONDENT worked for RE/MAX Excellence and his broker was Steve Anderson.

3. On or around, July 30, 2018, RESPONDENT represented buyer Lakers 6451, LLC, a California limited liability company ("Buyer," and/or "Property Owner") in the purchase of a retail office building commonly known as 193 E. Warm Springs Road, Las Vegas, NV 89119, more particularly identified as Clark County Assessor's Parcel No. 177-09-113-005 (the "Property").

4. Farid Issa ("Issa") is the manager and/or member of Buyer entity.

1 5. On or about July 10, 2019, RESPONDENT's then broker, Steve Anderson
2 ("Complainant"), filed a complaint with the Division, stating that he had received a call from one of
3 RESPONDENT's past clients, Issa, alleging that RESPONDENT had taken money from Issa.

4 6. Complainant stated after receiving the complaint he concluded in part, that
5 REPONDENT: (1) failed to have Issa sign a Duties Owed form, (2) was engaging in property
6 management without holding a permit, (3) may have comingled funds fraudulently, (4) appeared to have
7 embezzled funds from Issa, (5) and supervised construction over \$10,000.00 without employing a
8 licensed contractor.

9 7. Complainant stated that he asked RESPONDENT to reimburse Issa, to which
10 RESPONDENT agreed, and also requested that RESPONDENT find another brokerage.

11 8. On or around July 10, 2019, a complaint with the Division was filed on Issa's behalf.

12 9. In summary, the complaint alleged Issa paid RESPONDENT \$26,000.00 to remodel
13 office space at the Property by turning a larger space into two separate ones, that RESPONDENT
14 requested an additional \$1,800.00 to "check in" on the remodeling process, that RESPONDENT
15 requested an additional \$350.00 per month for cleaning services at the Property (despite that the leases
16 provided cleaning responsibilities were the tenants'), that RESPONDENT procured tenants to rent space
17 at the Property in exchange for the landowner paying him, charged extra for doing so and kept the money
18 for doing so despite claiming the fee was REMAX's, and that RESPONDENT was pocketing tenant rents
19 and deposits.

20 10. The complaint further alleged RESPONDENT was not licensed as a property manager.

21 11. The complaint further alleged RESPONDENT owed Issa approximately \$73,000.00.

22 12. On or around July 15, 2019, the Division properly notified RESPONDENT it had opened
23 an investigation and requested a response.

24 13. The Division again requested a response from RESPONDENT on October 18, 2019.

25 14. On or around November 4, 2019, RESPONDENT responded to the Division.

26 15. In his response, RESPONDENT claimed that Issa bought the Property and contacted him
27 to see if he could help him divide the large vacant suite located at the Property into two smaller suites by
28 finding a contractor and getting estimates.

1 16. RESPONDENT claimed that he obtained three estimates from contractors and gave them
2 to Issa, who selected one.

3 17. RESPONDENT also stated that Issa asked him to supervise the remodel and agreed to pay
4 RESPONDENT to do so.

5 18. RESPONDENT stated that Issa wrote RESPONDENT a check for \$26,000.00 and was
6 told to pay the contractor 50 percent when they began work and fifty percent when the work was
7 completed.

8 19. RESPONDENT admitted to finding tenants to occupy the Property.

9 20. In his response to the Division, RESPONDENT did not deny engaging in property
10 management.

11 21. RESPONDENT oversaw the remodel of the Property, collected rents from the Property,
12 and found tenants for the Property without holding a property management permit from the Division.

13 22. RESPONDENT further collected money from tenant rent payments and checks without
14 remitting those funds to his broker.

15 23. The transaction documents obtained from the purchase and sale of the Property show that
16 RESPONDENT failed to provide Issa with a Duties Owed form.

17 24. On or around November 19, 2019, the Division issued a Cease and Desist Order to
18 RESPONDENT to stop engaging in property management activities.

19 25. On or around December 5, 2019, the Division properly notified RESPONDENT it was
20 filing a complaint against him for hearing before the Nevada Real Estate Commission.

21 **SUMMARY OF VIOLATIONS ALLEGED IN COMPLAINT**

22 26. RESPONDENT violated NRS 645.230(1)(b) by engaging in activities for which a
23 property management permit is required from the Division.

24 27. RESPONDENT violated NRS 645.252(3)(a) by failing to present the buyer of the
25 Property with the Duties Owed by a Nevada Real Estate Licensee form.

26 28. RESPONDENT violated NRS 645.630(1)(c) by collecting a fee from the Property Owner
27 to place tenants without remitting those fees to his broker.
28

29. RESPONDENT violated NRS 645.633 (1)(i) pursuant to NAC 645.605(1) by collecting money from Property Owner and/or tenants without remitting those funds to his broker.

PROPOSED SETTLEMENT

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

1. RESPONDENT agrees to pay the Division's costs incurred in this action in the amount of \$1,669,24 by January 1, 2022.

2. RESPONDENT agrees to pay restitution to the complainant entity (Lakers 6451, LLC) in the amount of \$40,000.00 ("Restitution") by January 1, 2022 ("Payment Due Date"). The Restitution shall be payable by bank wire transfer from RESPONDENT to Lakers 6451, LLC. RESPONDENT shall contact the entity's representative, Merna Issa, at 619-938-5389 to obtain wiring instructions prior to the Payment Due Date. Within 5 days of completing payment of the Restitution, RESPONDENT shall provide proof of the Restitution payment to the Division.

3. RESPONDENT voluntarily agrees to the revocation of any and all licenses he holds with the Division, effective as of the date of the order approving this settlement for a period of 10 years ("Revocation Period"). Notwithstanding the foregoing, the parties understand and agree that RESPONDENT has entered into certain real estate transactions prior to his license revocation and agree and understand that nothing herein shall prevent RESPONDENT from receiving any monies for commissions due under those pending transactions. RESPONDENT represents and agrees that the money from the closing of these pending transactions shall be used to pay the Restitution.

4. Following the Revocation Period and provided that RESPONDENT has complied with all of the terms of this settlement agreement, should RESPONDENT desire to become licensed again with the Division, RESPONDENT shall submit a new application to the Division and comply with all Division requirements. Any such application for licensure is subject to the Commission's approval.

5. 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

1 once this Stipulation is approved and fully performed, the Division will close its file in this
2 matter.

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

16 7. Each party shall bear their own attorney's fees and costs, except as provided
17 above.

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

24 9. Withdrawal of Stipulation. If the Commission rejects this Stipulation or
25 suggests amendments unacceptable to RESPONDENT, RESPONDENT may withdraw
26 from this Stipulation, and the Division may pursue its Complaint before the Commission.
27 This Stipulation then shall become null and void and unenforceable in any manner against
28 either party.

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

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

20 **12. Default.** In the event of default under this Stipulation, RESPONDENT agrees
21 that the unpaid balance of the administrative fine and costs, together with any attorneys'
22 fees and costs that may have been assessed, and the Restitution due to complainant's entity
23 shall be due in full to the Division within ten calendar days of the date of default. Debt
24 collection actions for unpaid monetary assessments in this case may be instituted by the
25 Division or its assignee.

26 **13.** RESPONDENT has signed and dated this Stipulation only after reading and
27 understanding all terms herein.
28

1 DATED this 10 day of September, 2021.

2 DATED this 13th day of September, 2021.

3 NEVADA DEPARTMENT OF BUSINESS
4 & INDUSTRY, REAL ESTATE DIVISION

5 By: 

6 PHILIP M. MARCUS

7 By: 

8 SHARATH CHANDRA
9 Administrator

10 Approved as to form:

11 By: 

12 Colli McKiever (Bar No. 13724)
13 Boyack Orme Anthony & McKiever
14 7432 W. Sahara Ave, Suite 101
15 Las Vegas, NV 89117
16 Attorneys for RESPONDENT

17 AARON D. FORD
18 Attorney General

19 By: 

20 Karissa D. Neff (Bar No. 9133)
21 Senior Deputy Attorney General
22 555 E. Washington Avenue, Suite 3900
23 Las Vegas, NV 89101
24 Attorneys for Real Estate Division
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27
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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: September 15th, 2021.


REAL ESTATE COMMISSION
STATE OF NEVADA

By: 
President, Nevada Real Estate Commission

Submitted by:

AARON FORD, Attorney General

By:


Karissa D. Neff
Senior Deputy Attorney General
555 E. Washington Ave. Ste 3900
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Attorneys for Real Estate Division