

FILED

MAR 19 2021

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

REAL ESTATE COMMISSION

BY *Evelyn Pattee*

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

Case No. 2019-825

Petitioner,

vs.

Shaun McDonald,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

JURISDICTION

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, set for three days, beginning on March 2, 2021 via Webex (with telephone access) with no physical public location (as permitted by the Governor's Declaration of Emergency as amended) (the "Hearing"). RESPONDENT Shaun McDonald (hereinafter, "RESPONDENT") did not appear in person, through counsel, or otherwise. Karissa D. Neff, Esq., Senior 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").

Evelyn Pattee testified regarding notice sent to the RESPONDENT. The Commission found appropriate service of the notice of the Hearing, the complaint, Notice of the Complaint, and Notice of Documents was made.

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:

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1 RESPONDENT at all relevant times mentioned in this Complaint conducted activities for which
2 a license or permit is required by NRS Chapter 645 and is therefore subject to the jurisdiction of the
3 Division and the Commission and the provisions of NRS chapter 645 and NAC chapter 645.

4 FINDINGS OF FACT

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

7 1. RESPONDENT was licensed by the Division as a salesperson under license number S.0180664,
8 issued on December 5, 2016, said license being in “inactive” status at the time of filing this Complaint.

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

14 3. Complainant stated in his complaint that he was elderly, left his Property to receive medical
15 treatment, and had been paying Caad-Allen to upkeep the Property.

16 4. Complainant stated that Caad-Allen had no legal right to the Property.

17 5. During its investigation the Division obtained an Exclusive Authorization and Right to Sell,
18 Exchange or Lease Brokerage Listing Agreement (“Listing Agreement”) commencing on April 22, 2019
19 granting Forever Home Realty (the broker) the right to sell the Property for a listing price of \$60,000.00,
20 entered into between Caad-Allen as seller and Forever Home Realty as broker.

21 6. The Listing Agreement was signed by Nick Devitte (“Devitte”) on behalf of Forever Home
22 Realty, LLC brokerage and by his real estate agent- the RESPONDENT.

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

25 8. On April 22, 2019, Caad-Allen entered into a purchase agreement to sell the Property to Cap
26 Solutions, LLC for \$60,000.00 that had a closing date of May 24, 2019.

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

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

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

7 12. RESPONDENT further stated in his response to the Division that he then proceeded to create a
8 listing agreement for the Property, determined the Property needed to proceed as a short sale, that he
9 found a buyer for the property, and proceeded to open escrow and a short sale file.

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

13 14. A subsequent power of attorney was obtained by the Division during its investigation signed by
14 Complainant and was dated May 24, 2019 with an effective date of May 24, 2019, that purported to give
15 Caad-Allen power of attorney for all matters specified in the power of attorney document, including
16 power of attorney over real property.

17 15. At the time RESPONDENT entered into the Listing Agreement with Caad-Allen and accepted an
18 offer on the Property, RESPONDENT had no power of attorney that authorized him to proceed with the
19 transaction to sell the Property on the owner's (Complainant's) behalf through Caad-Allen.

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

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

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

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

28 20. RESPONDENT stated in his response to the Division's investigation, that after he received a

1 letter from Complainant's attorney, he discontinued the process of selling the Property and removed the
2 listing.

3 21. RESPONDENT's broker, Devitte, also responded to the Division's investigation.

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

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

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

11 **CONCLUSIONS OF LAW**

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

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

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

23 27. RESPONDENT violated NRS 645.635(1) by offering the Property for sale without the knowledge
24 and authorization of the owner.

25 **ORDER**

26 1. RESPONDENT shall pay \$31,021.80 to the Division ("Amount Due"), consisting of an
27 administrative fine in the amount of \$30,000.00 and the Division's attorneys' fees and costs in the amount
28 of \$1,021.80, within 90 days of the effective date of this Order.

- 1 2. The Division further revokes all real estate licenses held by RESPONDENT.
- 2 3. The Division may institute debt collection proceedings for failure to timely pay the Amount Due,
- 3 including an action to reduce this Order to a judgment. Further, if collection goes through the State of
- 4 Nevada, then RESPONDENT shall also pay the costs associated with collection.
- 5 4. The Commission retains jurisdiction for correcting any errors that may have occurred in the
- 6 drafting and issuance of this document.
- 7 5. This Order shall become effective on the 18th day of April, 2021.

8 DATED this 19th day of March, 2021.

10 REAL ESTATE COMMISSION
STATE OF NEVADA

11
12 By: 
13 President, Nevada Real Estate Commission

14 Submitted by:

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16 AARON FORD, Attorney General

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18 By: *Karissa Neff*

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