

1 BEFORE THE REAL ESTATE COMMISSION

2 STATE OF NEVADA

3 SHARATH CHANDRA, Administrator,
4 REAL ESTATE DIVISION, DEPARTMENT
5 OF BUSINESS & INDUSTRY,
6 STATE OF NEVADA,

7 Petitioner,

8 vs.

9 RICHARD W. BYRD,

10 Respondent.

Case No. 2020-719

FILED

NOV 12 2021

REAL ESTATE COMMISSION
BY *Evelyn Patten*

11 **COMPLAINT AND NOTICE OF HEARING**

12 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY
13 OF THE STATE OF NEVADA ("Division") hereby notifies RESPONDENT RICHARD W. BYRD
14 ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE
15 COMMISSION ("Commission"). The hearing will be held pursuant to Chapters 233B and Chapter 645
16 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC").
17 The purpose of the hearing is to consider the allegations stated below and to determine if the
18 RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.630 and/or NRS
19 622.400, and the discipline to be imposed, if violations of law are proven.

20 **JURISDICTION**

21 RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker under
22 license number B.1001574.LLC and B.0019254.INDV and is therefore subject to the jurisdiction of the
23 Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

24 **FACTUAL ALLEGATIONS**

- 25 1. RESPONDENT acted as agent and broker at America's Choice Realty, a Nevada limited
26 liability company.
- 27 2. RESPONDENT, for the last year of his employment at America's Choice Realty, came to
28 the office once every one to two weeks, for approximately three to five minutes, to pick-up his checks.
3. RESPONDENT communicates with agents via telephone but provides no in-person office

1 supervision and delegated the latter responsibility to Complainant, Keilla Paiva, BS.0144790.MGR

2 4. In May of 2020, RESPONDENT informed Howard Sonny Martell (“Mr. Martell”), the
3 owner of America’s Choice Realty, that he was interested in switching companies, and intended for
4 Complainant to fill his position of broker at America’s Choice Realty.

5 5. Complainant submitted her financials to the Nevada Real Estate Division and received
6 approval from the Division on July 2, 2020.

7 6. Since 2012 Complainant has worked full-time as a manager, and since 2017 Complainant
8 has worked full-time as a broker salesperson manager assisting agents with transactions, performing
9 quality control, maintaining records compliance, completing bookkeeping, training agents, performing
10 her own transactions, marketing functions, and participating in the hiring and firing of personnel.

11 7. On July 20, 2020, RESPONDENT informed Mr. Martell, that he found another brokerage
12 where he will move his license.

13 8. RESPONDENT and Mr. Martell agreed that Complainant would be the new broker at
14 America’s Choice Realty.

15 9. On July 21, 2020, RESPONDENT came in-person to the office to submit his resignation
16 letter, Form 512, and Form 505.

17 10. RESPONDENT stated he would return on July 22, 2021, with Form 509 notarized.

18 11. Form 509 needed to be completed by RESPONDENT to prove that Complainant had the
19 full-time experience to become a broker so she would be able to become the new broker at America’s
20 Choice Realty once RESPONDENT moved to another brokerage.

21 12. On July 28, 2020. RESPONDENT sent an email to Mr. Martell stating: “Wondering if we
22 could come up with a parting goodwill severance number that would be beneficial to both of us, well
23 mostly me.”

24 13. On July 31, 2020, RESPONDENT sent an email to Mr. Martell stating “...compensation
25 is due for energy and knowledge I am leaving you...lets call fair compensation \$3000...I am not sure
26 Keilla (Complainant) meets the standard of full-time agent to actually be a broker...it would be a coin
27 toss...Let’s clear up compensation due and then determine her time status towards being a broker...”

28 14. RESPONDENT then came to the office in-person asking Mr. Martell for money in

1 exchange for Form 509, which he stated was in his car.

2 15. Mr. Martell declined to pay RESPONDENT for the Form 509 reminding RESPONDENT
3 that he willingly stated for the past three weeks that he would complete the Form 509 for Complainant.

4 16. On August 3, 2021, RESPONDENT informed Complainant and Mr. Martell, via
5 telephone, that since he did not receive the \$3,000.00 he requested from Mr. Martell, he submitted to the
6 Division his resignation letter, along with Complainant's Form 509, stating that she lacked the experience
7 to become a broker.

8 **VIOLATIONS OF LAW**

9 17. RESPONDENT violated NRS 645.633(1)(i) as his conduct constituted deceitful,
10 fraudulent, or dishonest dealing as Respondent completed Form 509 as retribution for not receiving
11 monies he demanded and made approval of Complainant as broker conditioned on payment.

12 18. RESPONDENT violated NRS 645.633(1)(h) as he acted with gross negligence and
13 incompetence as Respondent failed to supervise his licensees, employees, and operation of business.

14 19. RESPONDENT violated NAC 645.600 for failing to carryout responsibilities of a broker
15 regarding associated licensees, employees, and operation of business by failing to supervise his licensees,
16 employees, and operation of business, and for failing to fill out Form 509 appropriately.

17 **DISCIPLINE AUTHORIZED**

18 Pursuant to NRS 645.630, the Commission is empowered to impose an administrative fine up to
19 \$10,000 per violation and suspend, revoke or place conditions on your license if warranted.

20 Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the
21 proceeding upon RESPONDENT, including investigative costs and attorney's fees if the Commission
22 otherwise imposes discipline on RESPONDENT.

23 Therefore, the Division requests that the Commission take such disciplinary action as it deems
24 appropriate under the circumstances.

25 **NOTICE OF HEARING**

26 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
27 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
28 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

1 **THE HEARING WILL TAKE PLACE** on December 14, 2021 commencing at
2 **9:00 a.m.**, or as soon thereafter as the Commission is able to hear the matter, and
3 each day thereafter commencing at 9:00 a.m. through December 16, 2021 or
4 earlier if the business of the Commission is concluded. The Commission meeting
5 will be held on December 14, 2021, at the Nevada State Business Center, 3300 West
6 Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting
7 will continue on December 15, 2021 at the Nevada State Business Center, 3300
8 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102,
9 commencing at 9:00 a.m., and on December 16, 2021, should business not be
10 concluded, starting at 9:00 a.m. at the Nevada State Business Center, 3300 West
11 Sahara Avenue, 4th Floor – Tahoe Room, Las Vegas, Nevada 89102

12 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled
13 at the same time as part of a regular meeting of the Commission that is expected
14 to last from December 14, 2021, through December 16, 2021, or earlier if the
15 business of the Commission is concluded. Thus, your hearing may be continued
16 until later in the day or from day to day. It is your responsibility to be present
17 when your case is called. If you are not present when your hearing is called, a
18 default may be entered against you and the Commission may decide the case as
19 if all allegations in the complaint were true. If you have any questions please
20 call Evelyn Pattee, Commission Coordinator (702) 486-4074.

21 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an open meeting
22 under Nevada’s open meeting law and may be attended by the public. After the evidence and arguments,
23 the commission may conduct a closed meeting to discuss your alleged misconduct or professional
24 competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of
25 the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

26 As the Respondent, you are specifically informed that you have the right to appear and be heard
27 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the
28 burden of proving the allegations in the complaint and will call witnesses and present evidence against

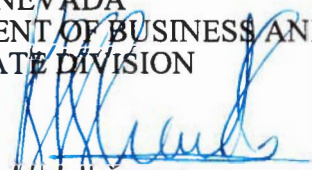
1 you. You have the right to respond and to present relevant evidence and argument on all issues involved.
2 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
3 witnesses on any matter relevant to the issues involved.

4 You have the right to request that the Commission issue subpoenas to compel witnesses to testify
5 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate
6 the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in
7 NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

8 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
9 645 and if the allegations contained herein are substantially proven by the evidence presented and to
10 further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
11 pursuant to NRS 645.235, 645.633 and or 645.630.

12 DATED this 4 day of November, 2021.

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: /s/ Susan L. Valladolid _____
23 SUSAN L. VALLADOLID
24 (Bar No. 15828)
25 Deputy Attorney General
26 555 E. Washington Ave., Ste. 3900
27 Las Vegas, Nevada 89101
28 (702) 486-3105
Attorneys for Real Estate Division