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FILED

BEFORE THE REAL ESTATE COMMISSION

JAN 29 2021

STATE OF NEVADA

REAL ESTATE COMMISSION

BY *Euley Patton*

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

Case No. 2019-825

Petitioner,

vs.

Shaun McDonald,

Respondent.

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA (“Division”) hereby notifies SHAUN MCDONALD (“RESPONDENT”) of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION (“Commission”). The hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes (“NRS”) and Chapter 645 of the Nevada Administrative Code (“NAC”). The purpose of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should be subject to an administrative penalty as set forth in NAC 645.695, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

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

FACTUAL ALLEGATIONS

1. RESPONDENT was licensed by the Division as a salesperson under license number S.0180664, issued on December 5, 2016, said license being in “inactive” 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 “Caad-

1 Allen”), had entered into a purchase agreement to sell his residential property, Clark County Assessor’s
2 Parcel No. 139-16-410-092, commonly known as 2519 West Street, North Las Vegas, NV 89032
3 (“Property”), without his knowledge or consent for a fraction of its value.

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

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

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

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

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

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

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

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

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

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

28 13. The power of attorney obtained by the Division during its investigation was signed by

1 Complainant on March 22, 2018 and gave power of attorney to Caad-Allen over certain matters of
2 Complainant's but did not give Caad-Allen power of attorney over real property.

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

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

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

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

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

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

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

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

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

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

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

1 **VIOLATIONS**

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

13 **DISCIPLINE AUTHORIZED**

14 1. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an
15 administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend, revoke
16 or place conditions on the license of RESPONDENT.

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

20 3. Therefore, the Division requests that the Commission take such disciplinary action as it deems
21 appropriate under the circumstances.

22 **NOTICE OF HEARING**

23 PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider this Administrative
24 Complaint against the above-named RESPONDENTS in accordance with Chapters 233B and 645 of the
25 Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

26 THE HEARING WILL TAKE PLACE at the Commission meeting scheduled for March 2-4,
27 2021, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes
28 its business.

1 If the Governor's Emergency Directive 006 - suspending physical location requirements - is
2 extended through the date of the meeting, then the hearing will be held via virtual meeting. The
3 Commission uses WebEx for its meetings. To join the hearing go to the Webex.com website and put in
4 the Access code and Attendee ID:

5 **TUESDAY, MARCH 2, 2021** Meeting number (Access code): 146 676 5037

6 Password (Attendee ID): MmWZJAfa752 (66995232752 from phones and video systems)

7 **WEDNESDAY, MARCH 3, 2021** Meeting number (Access code): 146 959 4482

8 Password (Attendee ID): qPvqu3Jm2R5 (77878356275 from phones and video systems)

9 **THURSDAY, MARCH 4, 2021 Meeting number** (Access code): 146 731 0977

10 Password (Attendee ID): vRfvSmer725 (87387637725 from phones and video systems)

11
12 If you do not have internet access, you may attend by phone at 1-844-621-3956 using the access
13 codes and attendee IDs listed above. Some mobile devices may ask attendees to enter a numeric attendee
14 ID provided above. If Emergency Directive 006 is not extended and the meeting is held in person, then
15 the meeting will be located at the following locations:

16 Nevada State Business Center
17 Real Estate Division
18 3300 West Sahara Avenue, 4th Floor Nevada Room
19 Las Vegas, NV 89102

20 If you would like an email containing this information, before the hearing, please contact Evelyn
21 Pattee, Commission Coordinator, at (702) 486-4074 or epattee@red.nv.gov.

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

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

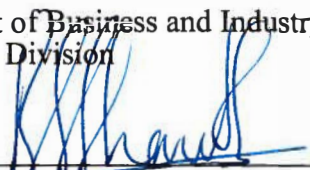
1 you. You have the right to respond and to present relevant evidence and argument on all issues involved.
2 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
3 witnesses on any matter relevant to the issues involved.

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
10 to 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 27th day of January, 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/ Karissa Neff*

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