

1 BEFORE THE REAL ESTATE COMMISSION

FILED

2 STATE OF NEVADA

MAY 14 2021

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

Case No. 2019-1065

REAL ESTATE COMMISSION
BY *Evelyn Patten*

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Petitioner,

vs.

SHERRYL L. BACA,

Respondent.

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Matthew Feeley, Deputy Attorney General, hereby notifies RESPONDENT SHERRYL L. BACA ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE 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 broker and held a property management permit. She 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 is licensed with the Division as a broker under license B.0024143.CORP, said license being issued in January of 2001, and is currently in "active" status. RESPONDENT's property management permit, permit PM.0163323.BKR, is currently in active status.

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1 2. On September 19, 2019, Ms. Liliane Pelzman (“Complainant”) submitted a complaint to
2 the Division regarding the return of security deposits related to two of her properties.

3 3. Complainant’s complaint involved two rental properties; located at 3425 E. Russell Rd.,
4 Las Vegas, NV, 89120, Units #211 and #144.

5 4. Complainant stated that Kathy Marlow, an agent for RESPONDENT, the owner/broker at
6 COMMUNITY MANAGEMENT & SALES, had managed units #211 and #144. The security deposits
7 for these properties were \$900 each.

8 5. Complainant stated that in August of 2019, she received a letter dated August 5, 2019,
9 from RESPONDENT which stated that RESPONDENT will be closing her business and will be unable
10 to manage the properties.

11 6. Within the letter discussed in #5 above, RESPONDENT recommended that Complainant
12 transfer management duties to the company of a friend of RESPONDENT.

13 7. Complainant declined that recommendation and requested RESPONDENT credit the
14 security deposits to Complainant’s account.

15 8. Complainant attempted to call and email RESPONDENT but at the time of the filing of
16 her Complaint had not received a response.

17 9. Complainant alleged that RESPONDENT owed her \$1800, that being \$900 for the
18 security deposit for each rental property.

19 10. The Division commenced an investigation into RESPONDENT’s activities in response to
20 Complainant’s complaint.

21 11. On October 3, 2019 the Division sent RESPONDENT a letter advising her that a
22 complaint had been filed against her and that as such, the Division has opened a case for investigation.
23 The Division instructed RESPONDENT to provide a response to the Division by October 17, 2019.

24 12. On November 13, 2019, RESPONDENT provided a signed and notarized affidavit with
25 the response to the complaint. RESPONDENT stated that her former property manager, Kathy Marlow,
26 quit without notice and that “letters were mailed to all clients by RPMG who took most of the accounts
27 when I closed that part of my business.”

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1 13. RESPONDENT further explained “there were some issues with deposits because some
2 owners had them, once the audit was complete, checks were sent to owners.” RESPONDENT explained
3 that she “had quite a bit of trouble getting into the software to see who had what on record.”

4 14. RESPONDENT puts forth that by the time of the writing of her response, she had mailed
5 Complainant a check for the security deposits at issue.

6 15. On September 9, 2020, the Division issued RESPONDENT a Notice of Violation for a
7 violation of the Nevada Revised Statutes, specifically NRS 645.630(1)(f).

8 16. The Notice of Violation issued a \$500 fine and provided notice that RESPONDENT could
9 appeal the decision within 30 days.

10 17. RESPONDENT has not paid the fine nor has she filed an appeal. The Division has not
11 received any contact with RESPONDENT concerning the September 9, 2020 Notice of Violation.

12 18. On December 2, 2020 the Division properly notified RESPONDENT it was commencing
13 a disciplinary action against her before the Nevada Real Estate Commission.

14 **VIOLATIONS**

15 RESPONDENT has committed the following violations of law:

16 19. RESPONDENT violated NRS 645.630(1)(f) by failing, within a reasonable time, to
17 account for or to remit any money which comes into her possession and which belongs to others,
18 specifically by not returning the security deposits held by her to the property owner Complainant upon
19 request to do so.

20 **DISCIPLINE AUTHORIZED**

21 20. Pursuant to NRS 645.630 the Commission is empowered to impose an administrative
22 fine per violation against RESPONDENT that may not exceed \$10,000, and further to suspend, revoke
23 or place conditions on the license of RESPONDENT,

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

27 22. Therefore, the Division requests that the Commission take such disciplinary action as
28 it deems appropriate under the circumstances.

1 **NOTICE OF HEARING**

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

5 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for June 15-17,
6 2021, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes
7 its business.

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

12 **TUESDAY, JUNE 15, 2021** Meeting number (Access code): 146 781 4940

13 Password (Attendee ID): MviU7hMsn35 (68487467635 from phones and video systems)

14 **WEDNESDAY, JUNE 16, 2021** Meeting number (Access code): 146 558 3491

15 Password (Attendee ID): EQvcxcSw628 (37829279628 from phones and video systems)

16 **THURSDAY, JUNE 17, 2021** Meeting number (Access code): 146 559 3429

17 Password (Attendee ID): BxHjvY3b33J (29458932335 from phones and video systems)

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

22 Nevada State Business Center
23 Real Estate Division
24 3300 West Sahara Avenue, 4th Floor Nevada Room
25 Las Vegas, NV 89102

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

28 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same time
as part of a regular meeting of the Commission that is expected to last from June 15, 2021, through June

1 17, 2021, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued
2 until later in the day or from day to day. It is your responsibility to be present when your case is called.
3 If you are not present when your hearing is called, a default may be entered against you and the
4 Commission may decide the case as if all allegations in the complaint were true. If you have any
5 questions, please call Evelyn Pattee, Commission Coordinator (702) 486-4074.

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

11 As the Respondent, you are specifically informed that you have the right to appear and be heard
12 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the
13 burden of proving the allegations in the complaint and will call witnesses and present evidence against
14 you. You have the right to respond and to present relevant evidence and argument on all issues involved.
15 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
16 witnesses on any matter relevant to the issues involved.

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

21 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
22 645 and if the allegations contained herein are substantially proven by the evidence presented and

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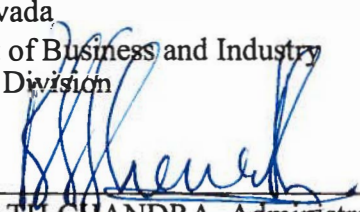
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1 to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
2 pursuant to NRS 645.235, 645.633 and or 645.630.

3 DATED this 11 day of May, 2021.

4 State of Nevada
5 Department of Business and Industry
6 Real Estate Division

7 By: 
8 SHARATH CHANDRA, Administrator
9 3300 West Sahara Avenue, Suite 350
10 Las Vegas, Nevada 89102

11 AARON D. FORD
12 Attorney General

13 By: /s/ *Matthew Feeley*

14 MATTHEW FEELEY (Bar. No. 13336)
15 Deputy Attorney General
16 555 E. Washington Avenue, Suite 3900
17 Las Vegas, Nevada 89101
18 (702) 486-3120
19 Attorneys for Real Estate Division
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