

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

FILED

MAY 12 2021

REAL ESTATE COMMISSION

BY *Evelyn Patten*

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

Case No. 2019-781

Petitioner,

vs.

PHILIP M. MARCUS,

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 Karissa D. Neff, Senior Deputy Attorney General, hereby notifies RESPONDENT PHILIP M. MARCUS ("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 NRS 645.633, NRS 645.630, NRS 645.235 and NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

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.

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FACTUAL ALLEGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 23. The transaction documents obtained from the purchase and sale of the Property show that
27 RESPONDENT failed to provide Issa with a Duties Owed form.
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1 and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

2 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for June 15-17,
3 2021, beginning at approximately 9:00 a.m. each day, or until such time as the Commission concludes
4 its business.

5 If the Governor's Emergency Directive 006 - suspending physical location requirements - is
6 extended through the date of the meeting, then the hearing will be held via teleconference and
7 videoconference. The Commission uses WebEx for its meetings. To join the hearing go to the website
8 Webex.com and put in the Meeting ID and Password:

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

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

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

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

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

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

15 If you do not have internet access, you may attend by phone at 1-844-621-3956 using the meeting
16 numbers and passwords listed above. Some mobile devices may ask attendees to enter a numeric meeting
17 password provided above. If Emergency Directive 006 is not extended and the meeting is held in person,
18 then the meeting will be located at the following locations:

19 Nevada State Business Center
20 Real Estate Division
21 3300 West Sahara Avenue, 4th Floor Nevada Room
22 Las Vegas, NV 89102

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

25 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the same time
26 as part of a regular meeting of the Commission that is expected to last from June 15, 2021, through June
27 17, 2021, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued
28 until later in the day or from day to day. It is your responsibility to be present when your case is called.
If you are not present when your hearing is called, a default may be entered against you and the

1 Commission may decide the case as if all allegations in the complaint were true. If you have any
2 questions please call Evelyn Pattee, Commission Coordinator (702) 486-4074.

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

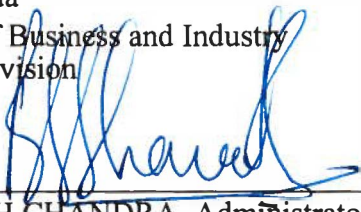
8 As the RESPONDENT, you are specifically informed that you have the right to appear and be
9 heard in your defense, either personally or through your counsel of choice. At the hearing, the Division
10 has the burden of proving the allegations in the complaint and will call witnesses and present evidence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

14 You have the right to request that the Commission issue subpoenas to compel witnesses to testify
15 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate
16 the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in
17 NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.920.

18 The purpose of the hearing is to determine if the RESPONDENT has violated NRS 645 or NAC
19 645 and if the allegations contained herein are substantially proven by the evidence presented and to
20 further determine what administrative penalty, if any, is to be assessed against the RESPONDENT,
21 pursuant to NRS 645.630, NRS 645.633, NRS 645.235 or NRS 645.230.

22 DATED this 11th day of May, 2021.

23 State of Nevada
24 Department of Business and Industry
Real Estate Division

25
26 By: 
27 SHARATH CHANDRA, Administrator
28 3300 West Sahara Avenue, Suite 350
Las Vegas, Nevada 89102

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AARON D. FORD
Attorney General

By: /s/ *Karissa Neff*

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