

BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

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

Petitioner,

vs.

ROBERT B. ADAMS,

Respondent.

Case No.: 2020-87

FILED

OCT 18 2022

REAL ESTATE COMMISSION
BY 

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

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 September 27, 2022 (the "Hearing"). RESPONDENT Robert B. Adams (hereinafter, "RESPONDENT") did not appear in person, through counsel, or otherwise, nor did he answer the complaint. Alma Orozco, Esq., 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").

A Notice of Default was entered against RESPONDENT on September 21, 2022. Further, Shareece Bates testified regarding notice sent to the RESPONDENT. The Commission found appropriate service of the notice of the Hearing, the initial complaint, Notice of the Complaint, and Notice of Documents, and all re-noticing documents.

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:

JURISDICTION

RESPONDENT at all relevant times mentioned in this Complaint was licensed by the Division and 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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FINDINGS OF FACT

1. In or around August 2019, RESPONDENT represented the buyer of real property located at 52 Smokestone Court, Las Vegas, Nevada 89110 (the "Property"). BTS 000034.

2. At that time, RESPONDENT was associated with Realty One Group Inc. and broker Damon Caldwell. BTS 000034.

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3. On August 21, 2019, buyer, through RESPONDENT, submitted an offer to Sellers' agent for the purchase of the Property. BTS 000008-17.

4. On August 23, 2019, Sellers accepted the terms of buyer's initial offer subject to Counter Offer #1. BTS 000008-17; BTS 000039.

5. On August 27, 2019, Sellers, through their agent, rescinded Counter Offer #1 and submitted a revised Counter Offer #1, reducing the purchase price. BTS 000037.

6. On August 27, 2019, buyer, through RESPONDENT, submitted Counteroffer #2. BTS 000035.

7. On Friday, September 5, 2019, Sellers accepted the buyer's Counteroffer #2. BTS 000035.

8. Section 1 of the Residential Purchase Agreement ("RPA") provided that buyer shall wire the earnest money deposit of \$5,000.00 "within 48 hours of acceptance" to the escrow holder, Chicago Title. BTS 000008-17.

9. The RPA provided buyer a 10 calendar day due diligence period following the date of acceptance of the RPA. BTS 000037.

10. The RPA provided for a close of escrow on or before September 27, 2019. *See* BTS 000006.

11. Subsection 18(c) of the RPA provides that in the event buyer defaults, "[s]eller may retain, as liquidated damages, the EMD." BTS 000008-17.

12. As such, the earnest money deposit was due Monday, September 9, 2019, and the due diligence period expired September 15, 2019. BTS 000008-17.

13. RESPONDENT never provided the broker he is associated with, Mr. Caldwell, a copy of the executed RPA. BTS 000107.

1 14. On September 6, 2019, RESPONDENT emailed Chicago Title and provided Chicago
2 Title with buyer's contact information for the wiring instructions. BTS 000100.

3 15. On September 6, 2019, RESPONDENT also texted buyer information to schedule a home
4 inspection for the property, and to check in on the status of the earnest money deposit. BTS 000063.

5 16. On the afternoon of September 6, 2019, RESPONDENT texted Sellers' agent informing
6 him buyer had issues accessing the wiring instructions, but RESPONDENT would contact Chicago Title
7 and buyer to have the wire posted by Monday, September 9, 2019. BTS 000127.

8 17. On Monday, September 9, 2019, buyer informed RESPONDENT he had a family
9 emergency in Mexico necessitating he travel that evening, and asked RESPONDENT to send the wiring
10 instructions for the earnest money deposit. BTS 000061.

11 18. RESPONDENT emailed Chicago Title to inform them of buyer's situation and asked
12 Chicago Title to assist buyer with accessing the wiring instructions. BTS 000099.

13 19. Chicago Title explained the wiring instructions and DocuSign registration to buyer. BTS
14 000099.

15 20. RESPONDENT followed up with buyer to confirm receipt of wiring instructions and
16 again later that afternoon to confirm if buyer had wired the earnest money deposit before buyer left the
17 country. BTS 000065-66.

18 21. RESPONDENT also texted Sellers' agent an update and stated buyer would wire the
19 earnest money deposit that day. BTS 000127.

20 22. Later that day, Chicago Title emailed all parties to inform them buyer confirmed he would
21 wire the earnest money deposit shortly. BTS 000101.

22 23. Shortly thereafter, Sellers received a text message from their agent informing Sellers of
23 buyer's family situation and stating the earnest money deposit "has been wired however so no worries
24 there." BTS 000005.

25 24. On September 10, 2019, Chicago Title informed RESPONDENT buyer had not wired the
26 earnest money deposit. BTS 000103.

27 25. On September 10, 2019, RESPONDENT followed up with buyer to inform him Chicago
28 Title was not in receipt of the earnest money deposit, noting the RPA's terms and conditions, and urged

1 buyer to deposit the funds as soon as possible as they were in breach of the RPA's terms and conditions.
2 BTS 000067.

3 26. On September 11, 2019, RESPONDENT followed up with buyer via email and text
4 message, urging buyer to wire the earnest money deposit, and to reschedule the home inspection. BTS
5 000068; BTS 000094.

6 27. On September 13, 2019, RESPONDENT texted buyer regarding the due diligence period
7 and pressed buyer to make the earnest money deposit as soon as possible. BTS 000070.

8 28. On September 15, 2019, RESPONDENT texted buyer asking for guidance regarding the
9 purchase of the Property, given the 10-day due diligence period expired that same day, and buyer had not
10 wired the earnest money deposit. BTS 000071.

11 29. Buyer responded to RESPONDENT's message that he had limited cellphone service and
12 would call him as soon he arrived at his hotel later that day. BTS 000069.

13 30. On September 16, 2019, Sellers' agent emailed RESPONDENT for an update. BTS
14 000092.

15 31. On September 17, 2019, RESPONDENT texted buyer and pressed the need to discuss the
16 RPA and the property with him. BTS 000072.

17 32. That evening, RESPONDENT called Sellers' agent and indicated he is unsure if buyer
18 wired the earnest money deposit. BTS 000129.

19 33. On September 18, 2019, Sellers' agent emailed RESPONDENT notifying him buyer had
20 not wired the earnest money deposit and had not performed his due diligence, and Sellers were advised
21 to seek legal counsel if buyer did not complete the transaction on or before September 27, 2019, pursuant
22 to the terms of the RPA. BTS 000090.

23 34. RESPONDENT forwarded Sellers' agent's email to buyer and followed up with a text
24 message. BTS 000073; BTS 000090.

25 35. On September 19, 2019, Sellers directed their agent to remove the Property listing and
26 cancel escrow. BTS 000187.

36. On September 24, 2019, the Division received a complaint against Eiwin Mark (“Mark”), Sellers’ agent, alleging Mark’s failure to verify the earnest money deposit with the Chicago Title was negligent and left Sellers no recourse. The Division also investigated RESPONDENT’s activities.

37. On March 17, 2020, RESPONDENT emailed the Division his completed Form 652, Affidavit, and additional documents pertaining to the Sellers' complaint, including text messages and emails. BTS 000022.

38. RESPONDENT, in his notarized Affidavit, explains he attempted to communicate with buyer to obtain an update for Sellers' agent via phone calls, emails, and text messages almost every single day without success. BTS 000026-27.

39. On July 10, 2020, the Division sent RESPONDENT a Notice of Violation with Imposition of Administrative Fines ("Notice of Imposition") via certified mail, noting that the Division Administrator found RESPONDENT in violation of NRS 645.252(2) and NAC 645.650(2), and imposed a \$1,500 fine against RESPONDENT due on August 10, 2020. BTS 000188-197. BTS 000188-197.

40. The Notice of Imposition was delivered to RESPONDENT on July 15, 2020. BTS
000199-200.

41. On September 8, 2020, the Division emailed RESPONDENT's then current broker to inform him RESPONDENT's administrative fine was past due. BTS 000206.

42. To date, RESPONDENT has not responded to the Notice of Imposition or paid the administrative fine imposed.

CONCLUSIONS OF LAW

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

43. RESPONDENT violated NRS 645.252(2) by failing to exercise reasonable skill and care with respect to all parties to the real estate transaction when he failed to inform the Sellers' agent that buyer was unresponsive and did not wire the earnest money deposit to the escrow holder as required by the RPA.

1 44. RESPONDENT violated NRS 645.630(1)(a) by communicating to Sellers' agent that
2 he was unsure if buyer wired the earnest money deposit when RESPONDENT knew buyer had not wired
3 the funds as set forth in the RPA, and buyer was in breach.

4 45. RESPONDENT violated NAC 645.650(2) when he failed to provide the broker he is
5 associated with a copy of the RPA.

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Page 7 of 7