

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 MALCOLM B. BOOT,

10 Respondent.

Case No. 2020-815

FILED

NOV 04 2022

REAL ESTATE COMMISSION

BY Kelly Valadez

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 MALCOLM B. BOOT
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 Salesperson
22 under license number S.0055504 and is therefore subject to the jurisdiction of the Division and the
23 Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

24 **FACTUAL ALLEGATIONS**

- 25 1. In and around May 2020, RESPONDENT represented the seller of real property located
26 at 73 Smokestone Court, Las Vegas, Nevada 89110 (the "Property"). BS 000428-33.
27 2. On May 2, 2020, the buyer and seller, through their agents, entered into a Residential
28 Purchase Agreement for the purchase of the Property. BS 000411-23.

1 3. On May 27, 2020, during the final walkthrough, RESPONDENT asked buyers' agent to
2 call buyers to ask if they were interested in selling a built-in desk in the Property's home office to
3 RESPONDENT for \$300. BS 000039; BS 000080.

4 4. The desk is a built-in desk, affixed to the wall of the home office in the Property. BS
5 000043-44.

6 5. On June 1, 2020, the parties closed on the transaction and the Property transferred
7 ownership to buyers. BS 000426-27.

8 6. On Wednesday, June 3, 2020, RESPONDENT emailed Buyers' agent and stated "You
9 said you expect their arrival from Texas could well be today I believe. Which would suit me just fine.
10 Because . . . I have \$300 cash burning a hole in my pocket to hand to you or [buyers] as agreed . . . I can
11 also, if his son has unscrewed it, take the wall unit above the desk, or wait for him to take down that piece
12 in the next few days." BS 000064-65.

13 7. Later that morning, buyers' agent replies to RESPONDENT that buyers "are not set to
14 arrive till Friday night [June 5, 2020] . . . I will give them your number and have them call you to set up
15 a time where you can get [the desk]." BS 000066.

16 8. RESPONDENT replies to buyers' agent, "No Worries I will Mickey Mouse thing till after
17 Friday. Thanks." BS 000067.

18 9. That same day, RESPONDENT entered the property using a spare key he still possessed
19 and removed the built-in-desk from the Property. BS 000039-40.

20 10. After buyers' arrival to the Property on June 5, 2020, RESPONDENT returned to the
21 Property to pay buyers \$300 for the desk and demanded that buyers sign a release before RESPONDENT
22 paid them. After buyers' son stepped in, RESPONDENT paid buyers \$300 for the desk, handed over the
23 spare key, and left. BS 000041.

24 11. On July 27, 2020, buyers' agent submitted a complaint to the Division against
25 RESPONDENT, alleging RESPONDENT'S behavior was unethical when he used a spare key to enter
26 the Property to take the desk. BS 000037-41.

1 **if all allegations in the complaint were true. If you have any questions please call**
2 **Kelly Valadez, Commission Coordinator (702) 486-4606.**

3 YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting
4 under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments,
5 the commission may conduct a closed meeting to discuss your alleged misconduct or professional
6 competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of
7 the transcript of the open and closed portions of 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 heard
9 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the
10 burden of proving the allegations in the complaint and will call witnesses and present evidence against
11 you. You have the right to respond and to present relevant evidence and argument on all issues involved.
12 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
13 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 645.875.

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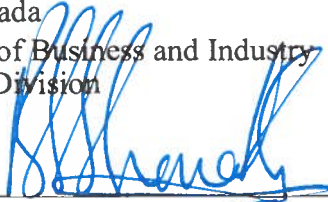
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1 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
2 645 and if the allegations contained herein are substantially proven by the evidence presented and to
3 further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
4 pursuant to NRS 645.235, 645.633 and or 645.630.

5
6 DATED this 3 day of November, 2022.

7 State of Nevada
8 Department of Business and Industry
9 Real Estate Division

10 By: 
11 SHARATH CHANDRA, Administrator
12 3300 West Sahara Avenue, Suite 350
13 Las Vegas, Nevada 89102

14 AARON D. FORD
15 Attorney General

16 By: */s/ Alma Orozco*
17 ALMA OROZCO (Bar No. 15300)
18 Deputy Attorney General
19 555 E. Washington Ave. #3900
20 Las Vegas, Nevada 89101
21 (702) 486-3420
22 Attorneys for Real Estate Division
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25
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