

BEFORE THE REAL ESTATE COMMISSION

FILED

STATE OF NEVADA

DEC 16 2022

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

Case Nos. 2020-1052

REAL ESTATE COMMISSION

BY Kelly Valadez

Petitioner,

vs.

RICHARD NAFT,

Respondent.

**STIPULATION AND ORDER FOR
SETTLEMENT OF DISCIPLINARY
ACTION**

This Stipulation for Settlement of Disciplinary Action ("Stipulation") is entered into by and between the State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), through its Administrator Sharath Chandra ("Petitioner"), by and through their attorney of record, Phil W. Su, Senior Deputy Attorney General, and Richard Naft ("RESPONDENT"), by and through his attorney Andrew Pastwick, Esq.

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

SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN THE COMPLAINT

1. RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker under license number B.1002185.INDV and held a property management permit under credential number PM.0167638.BKR and PM.0167639.BKR.

2. RESPONDENT is the Broker for American Realty Properties, LLC, where Malcolm B. Boot ("Boot") is an associated agent.

3. In and around May 2020, RESPONDENT and Boot represented the seller of real property located at 73 Smokestone Court, Las Vegas, Nevada 89110 (the "Property").

1 4. On June 1, 2020, the parties closed on the transaction and the Property transferred
2 ownership.

3 5. On June 3, 2020, Boot entered the Property using a spare key he still possessed without
4 the buyers' consent to remove a built-in-desk from the Property.

5 6. On July 27, 2020, buyers' agent submitted a complaint to the Division against Boot,
6 alleging Boot's behavior was unethical when he used a spare key to enter the Property and removed the
7 desk without the buyer's consent.

8 7. On September 9, 2020, the Division notified RESPONDENT the Division was in receipt
9 of a complaint against Boot, RESPONDENT's agent, and requested the complete transaction/broker's
10 file for the Property, and that RESPONDENT complete the Sworn Declaration, Form 770, by September
11 24, 2020.

12 8. On September 15, 2020, RESPONDENT emailed the Division seeking additional time to
13 respond to the Division's requests.

14 9. On September 23, 2020, the Division granted RESPONDENT two additional weeks to
15 respond, and set a new due date of October 6, 2020.

16 10. In October 2020, RESPONDENT responded to the Division, explaining that "Due to the
17 current health of my wife . . . I am unable to meet with a notary. I have talked to Malcolm Boot several
18 times and he has emailed me his response which I agree with."

19 11. On November 4, 2020, the Division emailed RESPONDENT to request the complete
20 transaction/broker's file again.

21 12. On November 5, 2020, the Division sent RESPONDENT follow up correspondence via
22 certified mail, noting that RESPONDENT did not respond to the September 9, 2020, request for
23 information pursuant to the Division's investigation and noting a new deadline of November 20, 2020,
24 to avoid potential disciplinary action.

25 13. On November 9, 2020, RESPONDENT emailed the Division, explaining that Boot had
26 already provided all documents related to the Property in Boot's September 29, 2020, email, and his
27 November 9, 2020, email to the Division, and forwarded Boot's emails to serve as RESPONDENT's
28 response.

1 14. On November 10, 2020, the Division emailed RESPONDENT again to request the
2 complete transaction/broker's file.

3 15. On November 10, and 11, 2020, Boot emailed the Division additional documents related
4 to the Property.

5 16. On November 12, 2020, RESPONDENT emailed the Division asking, "Have you
6 received additional docs for 73 Smoke Stone Ct Malcolm Boot agent ???"

7 17. On November 13, 2020, the Division replied to RESPONDENT noting that it had not
8 received the complete transaction/broker file for the Property, explaining that it had only received
9 "counter offers, addendums to the purchase, request for repair, Property Walkthrough Verification and
10 MLS data sheets" from Mr. Boot.

11 18. RESPONDENT replied to the Division, "sorry for the delay . . . tough times getting
12 together with agents[.]" but did not provide any additional documents.

13 19. On November 25, 2020, the Division sent RESPONDENT a Notice of Violation with
14 Imposition of Administrative Fine ("Notice of Imposition") via certified mail, noting that the Division
15 Administrator found RESPONDENT in violation of NRS 645.633(1)(i) pursuant to NAC 645.605(11)(a)
16 and imposed a \$1,000 administrative fine against RESPONDENT due by December 29, 2020.

17 20. On December 2, 2020, Boot emailed the Division, copied RESPONDENT, and attached
18 another set of documents.

19 21. On December 16, 2020, RESPONDENT forwarded several of Boot's emails to the
20 Division, which included "Batch #1" "Batch #2" and "Batch #3" of documents related to the Property.

21 22. On December 17, 2020, RESPONDENT, by and through his attorney, sent the Division
22 notice of his appeal of the Notice of Imposition.

23 23. Finally on February 4, 2021, approximately four months after the extended deadline,
24 RESPONDENT, by and through his attorney, provided the Division with all the documents related to the
25 Property, which were previously produced by Mr. Boot.

26 **SUMMARY OF VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT**

27 24. RESPONDENT violated NRS 645.633(1)(h) by engaging in conduct which constitutes
28 gross negligence or incompetence pursuant to NAC 645.605(11)(a) by impeding the Division's

1 investigation when RESPONDENT failed to provide the complete transaction/broker's file to the
2 Division in a timely manner after several requests.

3 **PROPOSED SETTLEMENT**

4 In an effort to avoid the time and expense of litigation these issues before the Commission, the
5 parties desire to compromise and settle the instant controversies upon the following terms and
6 conditions:

7 1. RESPONDENT agrees to pay the Division a total amount of \$4,192.60 ("Amount
8 Due"), consisting of a \$500.00 fine imposed by the Division and the Division's pre-hearing costs and
9 attorneys' fees in the amount of \$3,692.60.

10 2. The Amount Due shall be payable to the Division within thirty-six (36) months of the
11 order approving this settlement.

12 **TERMS APPLICABLE TO SETTLEMENT**

13 3. RESPONDENT and the Division agree that by entering into this Stipulation, the
14 Division does not concede any defense or mitigation RESPONDENT may assert and that once this
15 Stipulation is approved and fully performed, the Division will close its file in this matter.

16 4. RESPONDENT agrees and understands that by entering into this Stipulation,
17 RESPONDENT is waiving his right to a hearing at which RESPONDENT may present evidence in his
18 defense, his right to a written decision on the merits of the complaint, his rights to reconsideration
19 and/or rehearing, appeal and/or judicial review, and all other rights which may be accorded by the
20 Nevada Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and
21 accompanying regulations, and the federal and state Constitutions. RESPONDENT understands that
22 this Agreement and other documentation may be subject to public records laws. The Commission
23 members who review this matter for approval of this Stipulation may be the same members who
24 ultimately hear, consider, and decide the Complaint if this Stipulation is either not approved by the
25 Commission or is not timely performed by RESPONDENT. RESPONDENT fully understands that he
26 has the right to be represented by legal counsel in this matter at his own expense.

27 5. Each party shall bear their own attorney's fees and costs, except as provided above.
28

1 6. Approval of Stipulation. Once executed, this Stipulation will be filed with the
2 Commission and will be placed on the agenda for approval at its next public meeting. The Division
3 will recommend to the Commission approval of the Stipulation. RESPONDENT agrees that the
4 Commission may approve, reject, or suggest amendments to this Stipulation that must be accepted or
5 rejected by RESPONDENT before any amendment is effective.

6 7. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
7 amendments unacceptable to RESPONDENT, RESPONDENT may withdraw from this Stipulation,
8 and the Division may pursue its Complaint before the Commission. This Stipulation then shall become
9 null and void and unenforceable in any manner against either party.

10 8. Release. In consideration of the execution of this Stipulation, RESPONDENT for
11 himself, his heirs, executors, administrators, successors, and assigns, hereby releases, remises, and
12 forever discharges the State of Nevada, the Department of Business and Industry, and the Division, and
13 each of their respective members, agents, employees, and counsel in their individual and representative
14 capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions,
15 claims, and demands whatsoever, known and unknown, in law or equity, that RESPONDENT ever had,
16 now has, may have, or claim to have against any or all of the persons or entities named in this section,
17 arising out of or by reason of the Division's investigation, this disciplinary action, and all other matters
18 relating thereto.

19 9. Indemnification. RESPONDENT hereby agrees to indemnify and hold harmless the
20 State of Nevada, the Department of Business and Industry, Petitioner, the Division, and each of their
21 respective members, agents, employees, and counsel, in their individual and representative capacities,
22 against any and all claims, suits, and actions brought against said persons and/or entities by reason of
23 the Division's investigation, this disciplinary action, and all other matters relating thereto, and against
24 any and all expenses, damages, and costs, including court costs and attorney fees, which may be
25 sustained by the persons and/or entities named in this section as a result of said claims, suits, and
26 actions.

27 10. Default. In the event of default under this Stipulation, RESPONDENT agrees that his
28 licenses and/or permits shall be immediately suspended, and the unpaid balance of the administrative

1 fine and costs, together with any attorneys' fees and costs that may have been assessed, shall be due in
2 full to the Division within ten calendar days of the date of default. Debt collection actions for unpaid
3 monetary assessments in this case may be instituted by the Division or its assignee.

4 11. RESPONDENT has signed and dated this Stipulation only after reading and
5 understanding all terms herein.

6 DATED this 14 day of December, 2022.

DATED this 14 day of December, 2022.

7 NEVADA DEPARTMENT OF BUSINESS
8 & INDUSTRY, REAL ESTATE DIVISION

9
10 By: 

RICHARD NAFT

By: 

SHARATH CHANDRA
Administrator

12 Approved to as form:

13 LAW OFFICE OF ANDREW H.
14 PASTWICK, ESQ.

AARON D. FORD
Attorney General

15 By: 

Andrew H. Pastwick, Esq.
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By: 

Phil W. Su (Bar. No. 10450)
Senior Deputy Attorney General
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Las Vegas, NV 89101
Attorneys for Real Estate Division

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1 **ORDER**

2 IT IS ORDERED that the foregoing Stipulation and Order for Settlement of Disciplinary Action,
3 submitted by Petitioner and Respondent, is approved in full.

4 IT IS FURTHER ORDERED that the foregoing Stipulation and Order for Settlement of
5 Disciplinary Action shall become effective December 16, 2022 ("Effective Date").

6 Dated: December 16, 2022.

7 REAL ESTATE COMMISSION
8 STATE OF NEVADA

9 By: 

10 President, Nevada Real Estate Commission

11 Submitted by:

12 AARON FORD, Attorney General

13 By: 

14 PHIL W. SU (Bar No. 10450)
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