

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 SHERRY LYNN MATZDORFF,

10 Respondent.

Case No. 2020-86

FILED

APR 04 2023

REAL ESTATE COMMISSION

BY Kelley Valadez

11 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

12 This matter came on for hearing before the Real Estate Commission, Department of Business
13 and Industry, State of Nevada (the "Commission"), during a regular agenda on February 22, 2023, at
14 the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas,
15 Nevada 89102 (the "Hearing"). The RESPONDENT, SHERRY LYNN MATZDORFF (hereinafter,
16 "RESPONDENT" or "MATZDORFF") appeared with counsel Charles Gianelloni, Esq., of the law
17 firm Snell & Wilmer. Phil W. Su, Esq., Senior Deputy Attorney General with the Nevada Attorney
18 General's Office, appeared on behalf of the Real Estate Division of the Department of Business and
19 Industry, State of Nevada (the "Division").

20 The Hearing was originally set for September 27-29, 2022, but RESPONDENT requested and
21 was granted a continuance. RESPONDENT, through her initial counsel of record, Kenneth Toop, Esq.,
22 of Sage Legal, LLC, filed an answer to the complaint on or about September 19, 2022. The hearing was
23 rescheduled for December 13-15, 2022, but RESPONDENT requested, and was granted a second
24 continuance over the objection of then-Division Counsel Michelle Briggs, Esq., because
25 RESPONDENT was scheduled to undergo knee surgery and indicated the need for additional time for
26 her newly retained counsel, Attorney Gianelloni, to conduct discovery and prepare their case.

27 Rebecca Bruce testified regarding the investigation she undertook of RESPONDENT on behalf
28 of the Division, and the documents that were obtained from that investigation. Upon motion, the
Commission admitted the Division's documents into evidence. RESPONDENT testified upon her own
behalf, and, upon motion, the Commission admitted the RESPONDENT'S proffered documents into
evidence. RESPONDENT called a proposed expert witness, Lynn Dee Murrow, to testify, but Mr. Su
objected to the expert witness on the basis of relevance. The Commission sustained the objection.

1 RESPONDENT then called her current broker, Erik Hakans, to testify on her behalf. After hearing
2 testimony and reviewing the documents presented in this matter and for good cause appearing, the
3 Commission now enters its Findings of Fact, Conclusions of Law, and Order as follows:

4 FINDINGS OF FACT

5 The Commission, by unanimous vote, based upon the evidence presented during the Hearing,
6 finds that by a preponderance of the evidence in the record the following facts have been proven.

7 1. At all times relevant, RESPONDENT SHERRY LYNN MATZDORFF held a Nevada
8 Salesperson license, S.0176939, first issued by the Division on May 19, 2015.

9 2. RESPONDENT also held a Salesperson license in Arizona.

10 3. At all relevant times, the broker of record for RESPONDENT was Jeff Sommers of
11 Wardley Real Estate, duly licensed by the Division as a real estate broker (B.0052648.LLC).

12 4. On or about July 2017, a grand jury indictment charged RESPONDENT with three counts
13 of forgery, three counts of theft and one count of fraudulent schemes in Mohave County Superior Court
14 in Arizona.

15 5. The indictment was in connection with RESPONDENT's construction business based in
16 Lake Havasu City, Arizona.

17 6. On or about September 16, 2019, a Change of Plea Hearing was held at which the court
18 was presented with a Felony Plea Agreement (*North Carolina v. Alford*).

19 7. Under the plea agreement RESPONDENT plead guilty to three counts of felony theft and
20 agreed to pay restitution to all three victims on all counts, including the dismissed counts and specifically
21 waived the right to a trial.

22 8. The court found RESPONDENT knowingly, intelligently, and voluntarily pled guilty and
23 set the matter for Judgment and Sentencing on November 14, 2019.

24 9. On or about November 14, 2019, at the Judgment and Sentencing Hearing, the court
25 entered judgment against RESPONDENT as guilty of three counts of theft and sentenced
26 RESPONDENT to three years' probation.

27 10. Shortly after the hearing on November 14, 2019, RESPONDENT informed her broker in
28 Las Vegas, Jeff L. Sommers, about what had transpired in Arizona and he expressed his concern to her

1 regarding the criminal conviction on her license in Nevada.

2 11. Despite RESPONDENT's awareness of her own broker's concerns about the effect on
3 RESPONDENT's salesperson license, RESPONDENT failed to inform the Division of the conviction.

4 12. On or about January 20, 2020, the Division received an anonymous "tip" regarding
5 RESPONDENT's criminal conviction.

6 13. The "tip" consisted of an envelope mailed to the Division, containing a copy of minutes
7 from the Change of Plea Hearing filed with the Superior Court of Mohave County, Arizona where
8 RESPONDENT plead "Guilty" to three counts of Class Six Felony Theft.

9 14. The Division opened an investigation into RESPONDENT.

10 15. On or about February 6, 2020, the Division sent correspondence to RESPONDENT,
11 notifying her of the investigation and requesting that she provide an explanation of the charges and a
12 signed copy of the plea agreement no later than February 20, 2020.

13 16. In February 2020, RESPONDENT returned an affidavit saying she was being harassed by
14 a prior business partner, was forced to take the plea deal, had incompetent counsel, and did not understand
15 the ramifications of the plea. She offered to provide evidence to show "it was the corporation that went
16 bankrupt and not just me taking someone's money."

17 17. RESPONDENT informed the Division that the upcoming hearing would somehow
18 exonerate her of the charges or that the charges could be reduced to misdemeanors.

19 18. The Division's investigator requested the outcome of the hearing referred to by
20 RESPONDENT.

21 19. RESPONDENT misinformed the Division's investigator on October 26, 2020 that the
22 hearing was postponed due to Covid.

23 20. In fact, the court held a restitution hearing in July 2020, and on or about August 28, 2020,
24 the court entered an order against RESPONDENT to pay \$281,044.84 in restitution to the victims.

25 21. In September 2020, RESPONDENT sought post-conviction relief regarding the award of
26 restitution to the victims claiming payments she received as commissions and overhead should not have
27 been part of the restitution order.

28 22. On May 10, 2021, RESPONDENT again misinformed the Division's investigator that the

1 *trial* was still not scheduled.

2 23. On June 13, 2021, after repeated requests from the investigator, RESPONDENT
3 forwarded the investigator an acceptance of appeal to the Appellate Court which does not explain the
4 purpose for the appeal.

5 24. On August 25, 2021, RESPONDENT represented to the investigator that a decision from
6 the court was about 3 to 4 weeks away and “that then we can proceed with ending everything.”

7 25. On September 30, 2021, RESPONDENT represented to the investigator that she was
8 waiting to hear back from her attorney regarding the status and would meet with him in October.

9 26. On April 7, 2022, RESPONDENT again misinformed the Division’s investigator in an
10 email that “we are working on having the 3 remaining charges reduced to misdemeanors,” but due to
11 COVID things were moving slowly due to a three-year backlog with the court.

12 27. In April 2022, the Division’s investigator reviewed the court’s online docket and informed
13 RESPONDENT that she was miscommunicating the facts of the court case and again requested the court
14 documents on April 11, 2022.

15 28. On April 25, 2022, RESPONDENT finally provided the requested court documents which
16 showed the RESPONDENT’S post-conviction appeal was not an attempt to change her plea or to change
17 the charges against her from felonies to misdemeanors.

18 29. According to the records finally provided by RESPONDENT on April 25, 2022,
19 RESPONDENT argued on appeal that the “court had erroneously awarded restitution for the victims’
20 ‘commission’ and ‘overhead’ payments to her – which accounted for nearly one-half of the total
21 restitution award.”

22 30. The Arizona Court of Appeals denied her petition challenging the restitution order on
23 September 23, 2021.

24 **CONCLUSIONS OF LAW**

25 Based on the foregoing findings of fact, the Commission concludes by unanimous vote that
26 RESPONDENT committed the following violations of law.

27 31. RESPONDENT violated NRS 645.615(2)(a) by failing to notify the Division in writing
28 not more than 10 days after entry of her guilty plea agreement on September 16, 2019.

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6. This Order shall become effective on the 4th day of May, 2023.

DATED this 4th day of April, 2023.

REAL ESTATE COMMISSION
STATE OF NEVADA

By: *Spiridon Filios*
President, Nevada Real Estate Commission

Submitted by:
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Attorney General

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