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1	BEFORE THE REAL ESTATE COMMISSION	
2	STATE OF NEVADA	
3	SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION,	Case No. 2022-677
4	DEPARTMENT OF BUSINESS & INDUSTRY,	Case No. 2022-077
5	STATE OF NEVADA,	
6	Petitioner,	FILED
7	vs.	SEP 0 5 2023
8	FRANK GARY VILLANI,	REAL ESTATE COMMISSION BY Kelly Valader
9	Respondent.	0
10	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER	

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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 on August 23, 2023, at the Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102 (the "Hearing"). The RESPONDENT, FRANK GARY VILLANI (hereinafter, "RESPONDENT" or "VILLANI") appeared with counsel Scott A. Knight, Esq., of the law firm Knight & Ryan. Phil W. Su, Esq., Senior 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").

The Hearing was originally set for May 2-4, 2023, but RESPONDENT requested and was granted a continuance. The hearing was rescheduled for the Commission's August 22-24, 2023, hearing stack.

Division investigator Rebecca Bruce testified regarding review of the records conducted by chief investigator Jan Holle, and the documents that were obtained from that investigation. Upon motion, the Commission admitted the Division's documents into evidence. RESPONDENT testified upon his own behalf, and, upon motion, the Commission admitted RESPONDENT's proffered documents into evidence. After hearing testimony and reviewing the documents presented in this matter and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law, and Order as follows:

## **FINDINGS OF FACT**

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

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**RESPONDENT** is the Broker of record of Market One Realty LLC.

2. During the Division's monthly database review of broker annual reporting submissions for August 2022 it was identified that the Respondent did not submit his trust account reconciliations, which were due by August 31, 2022.

3. On September 21, 2022, the Division's Chief Investigator issued a Notice of Violation with the Imposition of Administrative Fine in the amount of \$1,000.00 for failing to timely submit the required trust account reconciliation pursuant to NRS 645.310(5).

4. The Notice of Violation and accompanying letter contained notice to RESPONDENT advising him of his appeal rights if he disagreed with the finding of violation and/or imposition of the fine.

5. On October 21, 2022, RESPONDENT sent a response through his attorney, Eric Fox, indicating that the delays stemmed "from an accounting software issue that has been addressed," that the RESPONDENT had been 'working diligently since the receipt of the NRED correspondence," and that he would deliver "the final Trust Account reconciliation by October 24, 2022.

6. Attorney Fox's letter requested a thirty (30) day extension, until October 24, 2022, to comply with the reconciliation submission requirement, and noted that Respondent would timely pay the \$1000 fine.

7. The Division subsequently received the \$1,000.00 check to pay the outstanding administrative fine.

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8. On December 5, 2022, the Division's Chief Investigator and Attorney Fox had a brief follow-up email exchange, wherein Attorney Fox conceded that his client had not submitted the reconciliation and the Division's chief investigator warned that failure to submit the reconciliation would result in a hearing before the Commission.

9. On or about January 10, 2023, the Division sent an NRS 233B letter, return receipt requested, to RESPONDENT through his counsel, noting that the Division still had not received the trust account reconciliations and would be pursuing a Commission hearing.

## **CONCLUSIONS OF LAW**

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

10. RESPONDENT violated NRS 645.630(5) pursuant to NAC 645.806(1) and 806(2), by failing to timely submit their annual Trust Account Reconciliation to the Division for 2022, due by the last day of the expiration month for their broker license.

## ORDER

The Commission, being fully apprised in the premises, and good cause appearing to the Commission, by unanimous vote, ORDERS as follows:

1. RESPONDENT shall pay an administrative fine to the Division in the total amount of \$10,692.63 – which includes a fine of \$5,000.00 for violations of law and \$5,692.63 for the Division's costs and prehearing attorney's fees – no later than 90 days from the effective date of this Order.

2. RESPONDENT agrees to take nine (9) hours of continuing education in the area of broker management, to be completed within six (6) months from the date of the Commission's Order Approving Stipulation. The hours must be live education and will not count toward RESPONDENT'S continuing education requirements for license renewal.

3. The Division may institute debt collection proceedings for failure to timely pay the total fine, including action to reduce this Order to a judgment. Further, if collection goes through the State of Nevada, then RESPONDENT shall also pay the costs associated

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1	with collection.	
2	4. The Commission retains jurisdiction for correcting any errors that may have	
3	occurred in the drafting and issuance of this document.	
4	5. This Order shall become effective on the $5^{++}$ day of <u>October</u> , 2023.	
5	DATED this 5th day of Sept., 2023.	
6	REAL ESTATE COMMISSION	
7	STATE OF NEVADA	
8	By: David R Tina	
9	Acting President/Vice President Nevada Real Estate Commission	
10	Submitted by: AARON D. FORD	
11	Attorney General	
12	Prove (c/ Dbil W. Su	
13	By: /s/ Phil W. Su Phil W. Su, Esq. Senior Deputy Attorney General	
14	555 E. Washington Avenue, Suite 3900 Las Vegas, Nevada 89101	
15	(702) 486-3420 Attorneys for Nevada Real Estate Division	
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