

FILED

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REAL ESTATE COMMISSION

BY Kelly Valadez

1 **ANS**
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7 **BEFORE THE REAL ESTATE COMMISSION**

8 **STATE OF NEVADA**

10	SHARATH CHANDRA, Administrator,)	
11	REAL ESTATE DIVISION, DEPARTMENT)	CASE NO. 2021-1192
12	OF BUSINESS & INDUSTRY,)	
13	STATE OF NEVADA,)	
14)	
15	Petitioner,)	
16	vs.)	
17)	
18	NATHAN VIDRINE)	
19)	
20	Respondent)	

21 **ANSWER TO COMPLAINT**

22 COMES NOW, RESPONDENT NATHAN VIDRINE ("RESPONDENT") by and
23 through his attorney of record, C. Edward Whitney, Esq., and hereby submits this Answer to
24 Complaint and Notice of Hearing. and alleges and avers as follows:

25 **FACTUAL ALLEGATIONS**

- 26 1. Answering paragraph 1 of the Complaint, RESPONDENT ADMITS the allegations.
- 27 2. Answering paragraph 2 of the Complaint, RESPONDENT DENIES the allegations.

28 RESPONDENT ADMITS that the Complainant paid a security deposit of \$1650.00 to
lease the Property.

1 3. Answering paragraph 3 of the Complaint, RESPONDENT ADMITS that his assistant
2 “Lourdes R.” did place her signature at the bottom of the document labeled “Security
3 Deposit Agreement.” RESPONDENT avers that his assistant was acting as an unlicensed
4 assistant receiving a security deposit and signing as a witness as allowed under NRS and
5 NRED’s Informational Bulletin #010. See Exhibit B.
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7 4. Answering paragraph 4 of the Complaint, RESPONDENT ADMITS the allegations.

8 5. Answering paragraph 5 of the Complaint, RESPONDENT ADMITS the allegations.

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10 6. Answering paragraph 6 of the Complaint, RESPONDENT ADMITS that he did direct his
11 brokerage computer program to send a bulk email to many tenants including the
12 Complainant. This automated email was sent after a routine audit of expired leases. There
13 was a clerical error that put the move-in date of the Complainant’s lease as the end date
14 of the lease. The email said in full “We are reaching out to you, to give you an
15 opportunity to renew your lease. Our Goal is to have you renew your lease. Please take
16 time to look at comps on zillow and realtor.com so that we can renew your lease at the
17 best rate we can offer.” The email contains Nathan’s name and telephone number with
18 his email address of Nathan@tkpsrealty.com at the bottom of the message. NRED
19 000061. RESPONDENT ADMITS that there was an attachment to the email of a 45 Day
20 Notice of Increased Rent. NRED 000046. RESPONDENT alleges that this clerical error
21 did not violate the Nevada Revised Statutes.
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24 7. Answering paragraph 7 of the Complaint, RESPONDENT ADMITS that **two weeks** after
25 the initial email, Complainant sent an email which stated “Nathan, I received this. Would
26 the owner be willing to go for \$1650/month.” RESPONDENT DENIES that it was sent
27 to him, but rather first it was sent to a donotreply email and then it was sent to
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1 info@tkpsrealty.com and Leasing@tkpsrealty.com around midday on Thursday, July 29,
2 2021. *NRED 000100*. RESPONDENT notes that in the Complainant's emails on July 29,
3 2021, the Complainant did not identify his property address.

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5 8. Answering paragraph 8 of the Complaint, RESPONDENT ADMITS that he did not
6 answer Complainant's email as it was not sent to his email address,
7 Nathan@tkpsrealty.com, but was sent to info@tkpsrealty.com and
8 Leasing@tkpsrealty.com. RESPONDENT ADMITS that his office assistant is
9 unlicensed and that she responded to Complainant's email on Friday, July 30, 2021
10 within 24 hours of receiving it. She answered the email because answering email sent to
11 info@tkpsrealty.com is part of her job responsibility. *NRED 000029 – 000030*.

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13 RESPONDENT avers that having his office assistant respond to the Complainant's email
14 by asking for his property address is not violation of NRS or NAC as there was no
15 activity in this communication that would require a license. See Exhibit B.

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17 9. Answering paragraph 9 of the Complaint, RESPONDENT ADMITS that on July 31,
18 2021, a Saturday, at 10:49 PM, Complainant sent an email in which he states "This email
19 serves as my 30 day notice to vacate effective immediately. I will be vacating the
20 property on august 30. Thank you. Let me know if there's any issues as soon as
21 possible." RESPONDENT DENIES that this notice allowed Complainant to get out of
22 his lease. *NRED 000029 – 000030*.

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24 10. Answering paragraph 10 of the Complaint, RESPONDENT ADMITS that on Monday,
25 August 2, 2021, the next business day after Complainant's previous email was received,
26 RESPONDENT's office assistant, "Ally Alvarez," did inform Complainant that the
27 Notice of Increased Rent was sent in error and to let her know "if you will still be moving
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1 out or continue with your lease.” *NRED 000029 and NRED 000028*. RESPONDENT
2 avers that such an email from his assistant is not a violation of NRS or NAC. See Exhibit
3 B.
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5 11. Answering paragraph 11 of the Complaint, RESPONDENT ADMITS that over two
6 weeks later (16 days), Complainant responded to the email by emailing
7 Leasing@tkpsrealty.com, “Ally Alvarez,” the office assistant, stating “I will still be
8 vacating the property as previously emailed.” *NRED 000029*. RESPONDENT avers that
9 upon further research, he found out that the Complainant was in a relationship and was
10 moving or had moved into his girlfriend’s house.
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12 12. Answering paragraph 12 of the Complaint, RESPONDENT ADMITS that the ledger at
13 NRED 000109 shows an Active End date of August 31, 2021. RESPONDENT avers that
14 this is because the ledger was updated when the Complainant returned the keys to the
15 property and once a new tenant was found as per NRS 118. RESPONDENT further
16 notes that the report at NRED 000109 was produced on January 6, 2022.
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18 13. Answering paragraph 13 of the Complaint, RESPONDENT ADMITS that the
19 Complainant forfeited his security deposit and was assessed charges for the remainder of
20 the lease term. This was in accordance with the lease that he signed at NRED 000031-
21 000045. RESPONDENT DENIES that the Active End date shown in NRED 000109 was
22 the last day of the lease. Rather the lease itself indicated the end of the lease date which
23 was 2/28/2022. *NRED 000032*. Also, the email sent to the Complainant by the office
24 assistant indicated an end date of 2/28/2022. *NRED 000029*. RESPONDENT avers that
25 under applicable state statutes, the Complainant would still be responsible for the term of
26 his lease until the property is rented.
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1 14. Answering paragraph 14 of the Complaint, RESPONDENT ADMITS that the
2 Complainant alleged he left the home in pristine condition. RESPONDENT notes that the
3 Statement of Security Deposit Refund did not assess any amount of the Security Deposit
4 for cleaning or repairing the Property. *NRED 000101*

6 15. Answering paragraph 15 of the Complaint, RESPONDENT ADMITS that in the October
7 4, 2021 email, Complaint alleged his bank sent the August payment in error.

8 RESPONDENT further ADMITS that the Complainant requested RESPONDENT to
9 return funds in addition to the security deposit, for a total amount due of \$4,664.00.

10 *NRED 000028*. RESPONDENT notes that the \$4,664.00 total is made up of the rent of
11 \$1507.00 for August 2021, the autopay payment of \$1507.00 on August 27th, 2021, and
12 the security deposit of \$1650.00. *NRED 000025*. RESPONDENT alleges that it is

13 common practice for people who break their lease to pay rent until one of two things
14 happen. The first is that the tenant pays the lease buy-out amount that is set forth in the
15 lease. The second is that the property is re-rented. In relation to the payment on August
16 27th, 2021 RESPONDENT states that he thought the Complainant was simply paying rent
17 until the property was re-rented. RESPONDENT thought this because the Complainant is
18 a business owner and deals with contracts all the time, including commercial leases.

19 RESPONDENT alleges that the Complainant got his amount of damages wrong that it
20 should have been only the security deposit and September's rent payment.

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24 16. Answering paragraph 16 of the Complaint, RESPONDENT ADMITS what is presented
25 in paragraph 16. Additionally, RESPONDENT added to his email "Let me see what we
26 can do to get you some if any money back." *NRED 000028*. RESPONDENT alleges that
27 he did let the Complainant know his stance on what he believed to have happened.
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1 RESPONDENT also told his client, the owner of the property, what had happened and
2 how RESPONDENT believed that Complainant had broken the lease due to the
3 RESPONDENT promptly letting the Complainant know that the lease renewal and notice
4 of increase in rent was sent in error.
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6 17. Answering paragraph 17 of the Complaint, RESPONDENT ADMITS that he questioned
7 the Complainant in an email sent on October 4, 2021 by asking “My Question is, Why
8 did you you not point out that the notice was wrong? or say, hey I just moved in you cant
9 Raise the rent” RESPONDENT DENIES that he was blaming the Complainant for not
10 noticing the Notice of Increased Rent was wrong but RESPONDENT just wanted to
11 understand the reasoning and thought process of the Complainant in order to evaluate the
12 situation. RESPONDENT had a duty to understand the situation with the Complainant in
13 order to protect RESPONDENT’s client’s interest, to which RESPONDENT owes
14 multiple duties. RESPONDENT avers that he was seeking understanding of the situation
15 in order to be fully informed when he talked with his client, the owner, to see if there
16 could be a resolution to the situation that was acceptable to all sides. RESPONDENT
17 further avers that he needed to have complete knowledge of the situation in order to make
18 a proper decision. Further, RESPONDENT alleges that when notices of rent increases
19 have been sent in error in the past, that most tenants have responded quicker than the two
20 weeks it took Complainant to respond. At the time of the October 4th email,
21 RESPONDENT already had information that Complainant had moved in with his
22 girlfriend and not leased another property as he had stated. RESPONDENT alleges that
23 he talked with Complainant’s attorney and offered to refund half of the extra month’s rent
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1 and the security deposit just to settle and that if the Complainant produced a signed lease,
2 then RESPONDENT would refund the full deposit and the September's rent.

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4 18. Answering paragraph 18 of the Complaint, RESPONDENT ADMITS that he has not
5 returned Complainant's security deposit or Complainant's August rent. RESPONDENT
6 points out that Complainant was never due the August rent, because according to
7 Complainant's own statements, he vacated the property at the end of August and there are
8 no grounds for letting the tenant have possession of the property for free. RESPONDENT
9 DENIES that August 31st was a valid termination date as the Notice of Rent Increase was
10 sent in error and was not intended to alter the lease. RESPONDENT alleges that the
11 security deposit was properly held back in accordance with NRS 118 for deductions and
12 unpaid rent. This was not a violation of the law but protection for RESPONDENT's
13 client who indeed believed the lease was broken. RESPONDENT further alleges that the
14 original Complaint by the Complainant was involving the return of money (security
15 deposit and overpayment) to Complainant and as such, is beyond the scope and authority
16 of the Real Estate Division. RESPONDENT alleges that the original Complaint should
17 have been referred to a civil court where the court could rule on the lease renewal and
18 whether it was valid or if a clerical error can break a lease.

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22 19. Answering paragraph 19 of the Complaint, RESPONDENT ADMITS that the Real Estate
23 Division issued A Notice of Violation with Imposition of Administrative Fine in the
24 amount of \$1,000.00. RESPONDENT further points out that the Facts and Rationale for
25 Finding contains factual inaccuracies. First, there is no evidence that RESPONDENT's
26 assistant's communicated with RESPONDENT's client, the landlord. Second,
27 RESPONDENT did not take 17 days to respond to Complainant after Complainant gave
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1 notice to vacate. Nowhere in the emails between Complainant and RESPONDENT does
2 it show that RESPONDENT took 17 days to respond to Complainant after he gave the
3 notice to vacate. Complainant never stated in his emails that RESPONDENT took 17
4 days to respond after Complainant gave his notice to vacate. Rather, the email evidence
5 shows that RESPONDENT's office assistant responded to Complainant on the next
6 business day after Complainant gave his notice to vacate. RESPONDENT notes that the
7 Real Estate Division never mentioned the Security Deposit Agreement in their Notice of
8 Violation and that RESPONDENT was not aware that the Real Estate Division felt that
9 the Security Deposit Agreement supported the violations until the Complaint was
10 delivered on March 20th of this year.
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13 20. Answering paragraph 20, RESPONDENT DENIES that RESPONDENT's Attorney
14 appealed. RESPONDENT ADMITS that he himself appealed the Notice of Violation
15 with Imposition of Administrative Fine by emailing Jan Holle on April 14th, 2022
16 because he felt that the facts of the case, having an office assistant responding to tenant to
17 ask for the name of the property and to inform the tenant that something was sent in error
18 is not a violation of the law, especially when done with the promptness in the instant
19 case. Emailing Mr. Holle had been an acceptable means of appealing such decisions in
20 the past and was within the 30-day period given to appeal decisions. RESPONDENT
21 does ADMIT that his Attorney sent an appeal to Jan Holle on September 28, 2022.
22 which laid out the arguments and facts as to why the Notice of Violation with Imposition
23 of Administrative Fine should be overturned.
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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Under Nevada law, RESPONDENT owed multiple duties to his client, the landlord, which required him to act how he did in this case, especially to enforce the terms of the lease which included using any monies received from the Complainant to pay for the breach of the lease.

SECOND AFFIRMATIVE DEFENSE

Nevada law would have prevented Turn Key from raising the rent in the middle of the lease term, therefore the whole 45 day notice of increase in rent is void including the option to vacate.

THIRD AFFIRMATIVE DEFENSE

If RESPONDENT would have accepted the Complainant's email offer of an increase in rent, it would not have been enforceable under Nevada law nor the lease. Therefore equity and fairness demands that the part of the 45 day notice of increase in rent that allows the tenant to terminate the lease should also not be enforceable.

FOURTH AFFIRMATIVE DEFENSE

The Nevada Real Estate Division exceeded it's authority in investigating this complaint as it involves the return of a security deposit and rent which is beyond the authority of the Division except in cases of fraud.

RESPONSES TO ALLEGED VIOLATION OF LAW

RESPONDENT DENIES that he violated the laws set forth in paragraphs 1 and 2.

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RESPONSES TO DISCIPLINED AUTHORIZED

RESPONDENT ADMITS paragraphs 3, 4, and 5.

RESPONDENT responds to paragraph 6 by asking the Real Estate Division to take no disciplinary action against RESPONDENT as none is warranted under the facts of this case.

Dated this 17th of April, 2023.

/s/ C. Edward Whitney

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