

1 BEFORE THE REAL ESTATE COMMISSION

2 STATE OF NEVADA

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

6 Petitioner,

7 vs.

8 BOBBY FLEMING,  
(S.0172698)

9 Respondent.

Case No. 2021-771

**FILED**

JAN 20 2023

REAL ESTATE COMMISSION

BY *Kelly Valadez*

10 **COMPLAINT AND NOTICE OF HEARING**

11 The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY  
12 OF THE STATE OF NEVADA (“Division”) hereby notifies RESPONDENT BOBBY FLEMING  
13 (“RESPONDENT”) of an administrative hearing before the STATE OF NEVADA REAL ESTATE  
14 COMMISSION (“Commission”). The hearing will be held pursuant to Chapters 233B and Chapter 645  
15 of the Nevada Revised Statutes (“NRS”) and Chapter 645 of the Nevada Administrative Code (“NAC”).  
16 The purpose of the hearing is to consider the allegations stated below and to determine if the  
17 RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.630 and/or NRS  
18 622.400, and the discipline to be imposed, if violations of law are proven.

19 **JURISDICTION**

20 RESPONDENT, at all relevant times mentioned in this Complaint, was and is actively licensed  
21 as a Salesperson under license number S.0172698. RESPONDENT is, therefore, subject to the  
22 jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter  
23 645.

24 **FACTUAL ALLEGATIONS**

- 25 1. At all times relevant to this Complaint, RESPONDENT associated with the brokerage The  
26 Brokerage, A Real Estate Firm. NRED 000002 – NRED 000003.
- 27 2. An Exclusive Authorization and Right to Sell, Exchange, or Lease Brokerage Listing  
28 Agreement (“ER”) commencing on May 3, 2021, yet signed 25 days later on May 28, 2021, was  
entered into between RESPONDENT and Client/Seller Erika Ferrell for the real property located at

1 8555 Rumsfield Court, Las Vegas, NV 89131-5282 (the "Property") with a list price of \$410,000, and a  
2 2% of the gross selling price commission, with instructions to offer the 2% to the cooperating broker.  
3 NRED 000160 – NRED 000169.

4 3. On May 10, 2021 and May 14, 2021, at 12:30 PM and 3:20 PM, respectively, the State  
5 mandatory Duties Owed by a Nevada Real Estate Licensee form ("Duties Owed"), was signed twice by  
6 the Client. NRED 000159.

7 4. On May 29, 2021, a Residential Purchase Agreement ("RPA") was entered into for the  
8 Property between Buyers, Trent and Elizabeth Leavitt, and Client/Seller, for \$415,000, with  
9 RESPONDENT presenting as Seller's agent pursuant to the Confirmation of Representation section.  
10 NRED 000138 – NRED 000151.

11 5. The RPA is conditioned upon a 10 day Buyers' Due Diligence or on or about June 8,  
12 2021. NRED 000141.

13 6. On May 29, 2021, Counter Offer No. 1 presented by RESPONDENT and accepted by the  
14 Parties, failed to check either the Buy or Sell box, to indicate an Expiration response deadline. NRED  
15 000138, and NRED 000151.

16 7. On or about June 1, 2021, the Property is listed on the Las Vegas Realtors Multiple Listing  
17 Service ("MLS") not pursuant to the Seller's instruction to list it at \$410,000, but instead, at \$405,000.  
18 NRED 000157 – NRED 000158.

19 8. On June 3, 2021, text messages from RESPONDENT to Client instruct his Client to  
20 transmit \$400 for a broker's fee in exchange for a lease back. NRED 000028 – NRED 000032.

21 9. RESPONDENT instructed his Client to send the \$400 by way of Zelle to whom  
22 RESPONDENT represents is the brokerage admin "Shelly Phillips" which he later corrected as "Shelly  
23 Fleming" stating "no relation" with a picture of who he alleged is her ex "Truman Fleming", but it is  
24 alleged that the brokerage admin is actually RESPONDENT'S ex-wife.

25 10. An incomplete Seller's Real Property Disclosure dated June 5, 2021, is alleged to have  
26 been completed by RESPONDENT. NRED 000129 – NRED 000133, NRED 000106

27 11. The Listing History from MLS demonstrates the Property was entered New Active  
28 effective May 29, 2021, with a status change on June 1, 2021 to Under Contract Show, despite  
Client/Seller's instructions that once an offer had been accepted the MLS Status shall be indicated as

1 Under Contract *No Show* (Emphasis Added), but it wasn't until 10 days later (on June 11, 2021, after  
2 date of acceptance on May 29, 2021) RESPONDENT changed the status to Pending, Under Contract No  
3 Show. NRED 000135 – NRED 000137, NRED 000167.

4 12. Outside of Due Diligence, on June 17, 2021, Buyers' signed Request for Repairs No. 1,  
5 requesting \$4,000 in lieu of repair items. NRED 000107 – NRED 000108.

6 13. On June 18, 2021, outside of the 15 calendar days from date of acceptance which provided  
7 Buyers' the ability to cancel the RPA in full without penalty, Buyers' acknowledged receipt of the  
8 Common Interest Community "Resale Package", which is signed by RESPONDENT as delivered by on  
9 July 1, 2021. NRED 000109 – NRED 000110.

10 14. In text messages from RESPONDENT to Client/Seller, a text message from  
11 RESPONDENT shows a screen shot of Seller's Response to the Request for Repairs with handwritten  
12 specified corrective actions offering "Seller to provide \$2000.00 credit at closing to buyer". NRED  
13 000022.

14 15. On June 19, 2021, the Parties have full acceptance of the Request for Repairs. NRED  
15 000107 – NRED 000108.

16 16. On June 22, 2021, the Instructions – Pay Commission from the title company identified  
17 total commission percentage as 4%, with 2% to listing agent, and 2% to buyer's agent, contrary to the  
18 Seller's written commission instruction of 2% of the gross selling price; and further, included an  
19 additional cost of \$500 from Client/Seller which is stricken and replaced with "\$OFF". NRED 000092.

20 17. On June 29, 2021, a Grant, Bargain, Sale Deed was recorded with the Clark County  
21 Recorder demonstrating the Property was sold by Client/Seller to the Buyers Leavitt's. NRED 000093 –  
22 NRED 000096.

23 18. On June 29, 2021, the title company's Final Combined Settlement Statement provided  
24 Commissions (\$6,225.00 to RESPONDENT's brokerage, and \$6,300.00 to buyer's brokerage). NRED  
25 000090 – NRED 000091.

26 19. On June 30, 2021, a commission check is cut from escrow to RESPONDENT'S  
27 BROKERAGE in the amount of \$6,225.00 regarding the sale of the Property. NRED 000089.

28

1 20. On July 1, 2021, a Commission Distribution Authorization Form signed by  
2 RESPONDENT and his broker identified RESPONDENT's take home pay as \$5,247.00 of the total  
3 Commission paid to the brokerage (\$6,225.00). NRED 000088.

4 21. On July 20, 2021, in text messages between Client/Seller and RESPONDENT,  
5 Client/Seller texted RESPONDENT "I take it you decided not to send me the remaining \$800 you owe  
6 me.", and RESPONDENT replied "Lol already got fired lost license so not sure what else you mean".  
7 NRED 000026.

8 22. On August 5, 2021, Client/Seller signed an SRPD, which does not include Buyers'  
9 acknowledgment of receipt. NRED 000083 – NRED 000087.

10 23. A formal complaint, Statement of Fact, against RESPONDENT was executed on July 23,  
11 2021 alleging possible deceitful dealings. NRED 000014 – NRED 000015.

12 24. In a letter dated July 26, 2021, the Division noticed RESPONDENT of a complaint  
13 received against him and requested his sworn statement in response to the issues alleged by August 9,  
14 2021. NRED 000005.

15 25. RESPONDENT did not supply his sworn statement to the Division; in letter dated August  
16 23, 2021 sent by Certified Mail, the Division again noticed RESPONDENT of this delinquent sworn  
17 statement due within 10 days of the date of letter to avoid disciplinary action. NRED 000008 – NRED  
18 000010.

19 26. RESPONDENT again failed to supply his sworn statement to the Division; in a letter  
20 dated October 11, 2021, the Division informed RESPONDENT that it will be proceeding with a  
21 disciplinary action against him for violations alleged: NRS 645.633(1)(i), NRS 645.252(2), NRS  
22 645.633(1)(i) pursuant to NRS 645.280, NRS 645.633(1)(i) pursuant to NAC 645.605(3), and NRS  
23 645.633(1)(h) pursuant to NAC 645.605(11)(b). NRED 000011 – NRED 000012.

24 **VIOLATIONS OF LAW**

25 RESPONDENT committed the following violations of law:

26 1. RESPONDENT violated NRS 645.633(1)(i) for engaging in deceitful, fraudulent  
27 and/or dishonest dealings when he extracted monies from his Client/Seller, including but not limited to,  
28 the \$400 for a broker's fee which is not required to grant his client's wish for a lease back, and the  
instruction to his Client to pay the brokerage admin, who is alleged to be RESPONDENT'S ex-wife.



1 8. Additionally, under NRS 622.400, the Commission is authorized to impose costs of the  
2 proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission  
3 otherwise imposes discipline on RESPONDENT.

4 9. Therefore, the Division requests that the Commission take such disciplinary action as  
5 it deems appropriate under the circumstances.

#### 6 NOTICE OF HEARING

7 PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider the  
8 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and  
9 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

10 THE HEARING WILL TAKE PLACE on February 21, 2023, commencing at 9:00 a.m., or  
11 as soon thereafter as the Commission is able to hear the matter, and each day thereafter  
12 commencing at 9:00 a.m. through February 23, 2023, or earlier if the business of the Commission  
13 is concluded. The Commission meeting will be held on February 21, 2023, at the Nevada State  
14 Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102.  
15 The meeting will continue on each day thereafter commencing at 9:00 a.m. through February 23,  
16 2023, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room,  
17 Las Vegas, Nevada 89102, until the business of the Commission is concluded.

18 STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same  
19 time as part of a regular meeting of the Commission that is expected to last from February 21, 2023  
20 through February 23, 2023, or earlier if the business of the Commission is concluded. Thus, your  
21 hearing may be continued until later in the day or from day to day. It is your responsibility to be  
22 present when your case is called. If you are not present when your hearing is called, a default may  
23 be entered against you and the Commission may decide the case as if all allegations in the complaint  
24 were true. If you have any questions, please call Kelly Valadez, Commission Coordinator, at (702)  
25 486-4036.

26 YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting  
27 under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments,  
28 the commission may conduct a closed meeting to discuss your alleged misconduct or professional



1 competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of  
2 the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

3 As the Respondent, you are specifically informed that you have the right to appear and be heard  
4 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the  
5 burden of proving the allegations in the complaint and will call witnesses and present evidence against  
6 you. You have the right to respond and to present relevant evidence and argument on all issues involved.  
7 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing  
8 witnesses on any matter relevant to the issues involved.

9 You have the right to request that the Commission issue subpoenas to compel witnesses to testify  
10 and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate  
11 the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in  
12 NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

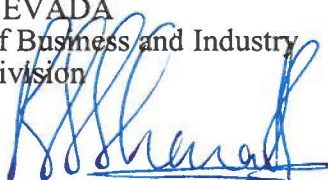
13 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC  
14 645 and if the allegations contained herein are substantially proven by the evidence presented and  
15 to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,  
16 pursuant to NRS 645.235, 645.633 and or 645.630.


17  
18 DATED this 19 day of January 2023.

DATED this 19<sup>th</sup> day of January 2023.

19  
20 STATE OF NEVADA  
21 Department of Business and Industry  
22 Real Estate Division

AARON D. FORD  
Attorney General

23 By:   
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