

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 PHILBERT WILSON,
(B.1001034.LLC, B.1002757.INDV,
9 PM.0163519.BKR)

Respondent.

Case No. 2022-314

FILED

JAN 20 2023

REAL ESTATE COMMISSION

BY *Kelley 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 PHILBERT WILSON
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 Broker under license number B.1001034.LLC, B.1002757.INDV, PM.0163519.BKR.
22 RESPONDENT is, therefore, subject to the jurisdiction of the Division and the Commission, and the
23 provisions of NRS chapter 645 and NAC chapter 645.

24 **FACTUAL ALLEGATIONS**

25 1. At all times relevant, RESPONDENT was the broker for Quantified Investment Group.
26 NRED 000004.
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1 2. RESPONDENT's Agent, Ajay Gerald Dayal ("Dayal"), was associated with the following
2 brokerages: Nationwide Realty LLC until June 15, 2015, Aargon Real Estate Group LLC from July 9,
3 2015 to August 25, 2015, then with Quantified Investment Group from August 25, 2015 to the present.
4 NRED 000002 -NRED 000003.

5 3. On April 15, 2015, a Residential Purchase Agreement ("RPA") was fully executed on the
6 real property 3659 Bufflehead Street, Las Vegas, NV 89122 (the "Bufflehead Property") for \$315,600
7 between Buyer Dayal and Seller Complainant, with financing terms which, included a balance of
8 \$306,000 by promissory note secured by a deed of trust. NRED 000021 – NRED 000039.

9 4. The Bufflehead Property transaction also included an Agreement to Occupy Prior to the
10 Close of Escrow indicating Dayal would take possession of the Property on April 25, 2015 for no cost
11 with no security deposit down. NRED 000033 – NRED 000034.

12 5. An RPA dated October 24, 2015 was fully executed on October 25, 2015 at 4:10 PM on
13 the real property at 4998 Philadelphia Avenue, Las Vegas, NV 89104 APN 161-05-710-344 (the
14 "Philadelphia Property") for the purchase price of \$192,000 between Buyer Jack Wan and Seller
15 Complainant with a close of escrow date within six days of the date of the RPA or October 30, 2015.
16 NRED 000041 – NRED 000059.

17 6. The RPA on the Philadelphia Property lacks care and skill, specifically: Dayal as Buyer's
18 Agent left blank the Earnest Money Receipt section, and Dayal indicated under the Confirmation of
19 Representation section Dayal's former brokerage: 2780 S Jones Blvd Ste 215, Las Vegas, NV 89146.
20 NRED 000041 – NRED 000052.

21 7. The RPA on the Philadelphia Property does not disclose Dayal's interest in a principal in
22 the transaction; Dayal failed to indicate his partnership relationship with Buyer Mr. Wan, managing
23 members of Quantified Investment Group LLC and of Quantified Development Group LLC, to which
24 the Philadelphia Property conveyed. NRED 000041 – NRED 000052, NRED 000079 – NRED 000082,
25 NRED 000073 - NRED 000074.

26 8. On October 25, 2015, Complainant signed a Notice of Broker Compensation and Invoice
27 presented by Dayal with the flat fee amount of \$5,760.00 (3%) to broker Quantified Investment Group,
28 whereby the 3% undermined that the fee is a flat fee, because the parties had not indicated anywhere

1 within the transaction to forego any addendums or amendments which could change the purchase price.
2 NRED 0000059, and NRED 000041 – NRED 000058.

3 9. On October 25, 2015, the Seller Complainant signed the State mandatory Duties Owed by
4 a Nevada Real Estate Licensee (“Duties Owed”) form over six months after the Bufflehead Property
5 RPA. NRED 000040.

6 10. On October 25, 2015 at 4:10 PM, the Seller Complainant signed the Duties Owed at the
7 exact date and time that the RPA for the Philadelphia Property was signed. NRED 000040, and NRED
8 000052.

9 11. Further, the Duties Owed was deficient; Seller Complainant did not indicate with his
10 initials permission for Dayal to act for both parties, the buyer and seller. There is no evidence the
11 mandatory Consent to Act form in this multiple representation instance was ever completed and signed
12 by the parties. NRED 000040.

13 12. On October 26, 2015, Buyer Mr. Wan and Seller Complainant completed and signed a
14 Financing Addendum on the Philadelphia Property instructing escrow to prepare a Promissory Note
15 secured by Deed of Trust for the principal balance of \$172,000. NRED 000054 – NRED 000058.

16 13. The Clark County Assessor’s Office demonstrates APN #161-05-710-344 the
17 Philadelphia Property never transferred to Buyer Mr. Wan; instead, the Philadelphia Property transferred
18 from Complainant directly to Quantified Development Group LLC. NRED 000073 – NRED 000074.

19 14. On January 25, 2022, Dayal recorded frivolous claims (two notices of *lis pendens*) on the
20 Bufflehead and Philadelphia Properties. NRED 000061 – NRED 000072.

21 15. On February 4, 2022 a Trustee’s Deed Upon Sale was recorded identifying that Quantified
22 Development Group, LLC defaulted on its Deed of Trust. NRED 000075 – NRED 000078.

23 16. On February 11, 2022, the Clark County District Court denied Dayal’s lawsuits filed on
24 the Philadelphia and Bufflehead Properties (Ex Parte Emergency Application for Temporary Restraining
25 Order *and* Preliminary Injunction). NRED 000061 – NRED 000072.

26 17. On February 1, 2022, the Division notified RESPONDENT that it was in receipt of a
27 complaint against his agent, Dayal, and requested RESPONDENT’s sworn statement and his complete
28

1 broker's transaction files for the Bufflehead Property by February 16, 2022. NRED 000005 - NRED
2 000008.

3 18. The RESPONDENT did not supply his statement to the Division; on March 18, 2022, the
4 Division sent RESPONDENT a follow-up correspondence via certified mail, noting a new 10 day
5 deadline from the date of the letter to respond to avoid potential disciplinary action. NRED 000009 –
6 NRED 0000016.

7 19. The RESPONDENT continued to not supply his sworn statement as required by the
8 Division, instead, on April 29, 2022, RESPONDENT'S attorney, Brandon L. Phillips, represented he
9 would formally respond to the Division "next week" and included attachments demonstrating a lawsuit
10 filed by Dayal against Complainant. No formal response from RESPONDENT'S attorney was received.
11 NRED 000084.

12 **VIOLATIONS OF LAW**

13 RESPONDENT has committed the following violations of law:

14 1. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(11)(a) when
15 he impeded or attempted to impede any investigation of the Division by failing to comply or delay his
16 compliance with numerous requests by the Division to provide documents.

17 2. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(11)(b) when
18 he failed to provide a written response as requested by the Division on numerous occasions.

19 **DISCIPLINE AUTHORIZED**

20 3. Pursuant to NRS 645.630 and NRS 645.633, the commission is empowered to impose
21 and administrative fine per violation against RESPONDENT that may not exceed \$10,000, and further
22 to suspend, revoke or place conditions on the license of RESPONDENT;

23 4. Additionally, under NRS 622.400, the Commission is authorized to impose costs of the
24 proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission
25 otherwise imposes discipline on RESPONDENT.

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

28

1 **NOTICE OF HEARING**

2 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider the
3 Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and
4 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

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

13 **STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same**
14 **time as part of a regular meeting of the Commission that is expected to last from February 21, 2023**
15 **through February 23, 2023, or earlier if the business of the Commission is concluded. Thus, your**
16 **hearing may be continued until later in the day or from day to day. It is your responsibility to be**
17 **present when your case is called. If you are not present when your hearing is called, a default may**
18 **be entered against you and the Commission may decide the case as if all allegations in the complaint**
19 **were true. If you have any questions, please call Kelly Valadez, Commission Coordinator, at (702)**
20 **486-4606.**

21 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an open meeting
22 under Nevada’s open meeting law, and may be attended by the public. After the evidence and arguments,
23 the commission may conduct a closed meeting to discuss your alleged misconduct or professional
24 competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of
25 the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

26 As the Respondent, you are specifically informed that you have the right to appear and be heard
27 in your defense, either personally or through your counsel of choice. At the hearing, the Division has the
28 burden of proving the allegations in the complaint and will call witnesses and present evidence against

1 you. You have the right to respond and to present relevant evidence and argument on all issues involved.
2 You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing
3 witnesses on any matter relevant to the issues involved.

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

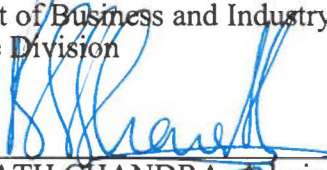
8 The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC
9 645 and if the allegations contained herein are substantially proven by the evidence presented and
10 to further determine what administrative penalty is to be assessed against the RESPONDENT, if any,
11 pursuant to NRS 645.235, 645.633 and or 645.630.

12
13 DATED this 19 day of January 2023.

DATED this 19th day of January 2023.

14
15 STATE OF NEVADA
16 Department of Business and Industry
17 Real Estate Division

AARON D. FORD
Attorney General

18 By: 
19 SHARATH CHANDRA, Administrator
20 CHARVEZ FOGER, Deputy Administrator
21 3300 West Sahara Avenue, Suite 350
22 Las Vegas, Nevada 89102

By: 
CHRISTAL P. KEEGAN (Bar No. 12725)
Deputy Attorney General
5420 Kienzle Lane #202
Reno, Nevada 89509
(775) 687-2141
Attorney for Real Estate Division