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BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator,)
REAL ESTATE DIVISION,)
DEPARTMENT OF BUSINESS &)
INDUSTRY,)
STATE OF NEVADA)
Petitioner)

Case Nos.: 2021-1122
2022-120

FILED

NOV 02 2023

vs.)
MARSHALL CARRASCO,)
(B 1000579.INDV))
RESPONDENT.)

REAL ESTATE COMMISSION

BY *Kelley Valadez*

RESPONSE TO OPPOSITION TO REQUEST FOR REHEARING

The Respondent, Marshall Carrasco, has requested a Rehearing as to the specifics and seriousness of the discipline imposed in the Findings of Fact, Conclusions of Law, and Order pursuant to NAC 645.820(7) entered in these two cases. The Real Estate Division of the Department of Business and Industry of the State of Nevada ("Division") filed an Opposition to Respondent's Petition Request for Rehearing ("Opposition"), to which this Response is addressed.

Respondent acknowledges that some violations occurred in the underlying matters for which discipline may be imposed. However, because of his unfamiliarity with nature of the disciplinary hearing process, including possible settlement options, he was unable to properly present matters in mitigation, which were at least partly summarized in his Response to the allegations of his failing to properly supervise an agent in his office whose license had lapsed. Specifically he was given to believe by the representations of third parties that the agent did in fact have an active license. If so, to this lay person, the terms of NRS 645.660(1) would seem to provide a basis for the Real Estate Commission ("Commission") to consider these facts in mitigation of the discipline imposed. So that it is very clear, Respondent only wishes to address the possible mitigation of discipline imposed in these cases in any rehearing that may be granted.

1 Because of serious family emergencies out of the county, the Respondent
2 requested a second hearing continuance, which was denied.

3 The argument against Rehearing in the Opposition rests primarily on one
4 salient assumption: That because the Respondent was able to communicate by with
5 the Division by email, that he was also able to participate in the August 22, 2023,
6 hearing by electronic means. From that assumption the Division further infers that
7 his failure to participate was based on Respondent's *purposely choosing* to not
8 appear.

9 It would not be unreasonable therefore to conclude that the severity of the
10 discipline imposed on the Respondent took into account his conscious "choice" to
11 not appear. That is why the Respondent needs to provide information about his
12 situation on August 22, 2023, that the Division could have taken into account in
13 arguing that the hearing should go forward before the Real Estate Commission
14 ("Commission") in default.

15 Respondent acknowledges that he did not give the Division information that
16 in retrospect might have affected the Division's handling of his request for a second
17 continuance. His lack of legal expertise worked against him.

18 Respondent should have provided like detail as presented below to assist the
19 Division in making its determination of how to proceed. Respondent submits in
20 support of his Request for Rehearing (And request for continuance of the August
21 22, 2023, hearing.) the following:

22 "I found out my grandmother was Very ill and she needed to go to the
23 hospital. On August 3, I notified Mrs. Keegan that I had a family emergency.

24 Once I realized the severity of the my grandmother's situation, I flew down to
25 Costa Rica to be there for my family and to help out financially

26 My intentions were to fly down for a week and come back for the hearing. I
27 left town on August 14 with the intention of coming back before the hearing.
28

1 Since the situation was more serious than I anticipated, and my grandmother
2 refused to go to the hospital, we got her set up in a hospice situation where she'd
3 have 24-hour care.

4 My grandmother lives in a rural mountainous area of Costa Rica, which is
5 about 2 ½ hours away from any city or town with internet access.

6 So it is true that I was within driving distance of a place with some internet
7 access. But the internet access in any other city or town in the area is very weak
8 and inconsistent to say the least. When you send out an email, it goes out delayed,
9 and it definitely will not go out with any big attachments.

10 As to alternate means of communication: Phone calls often get dropped and
11 the majority are delayed. Video calls are virtually impossible without dropping
12 every 30 seconds or so.

13 So while I was able to send emails on a couple of occasions to the Division
14 by driving for at least a couple of hours to a town with internet access, those emails
15 do not reflect an ability to adequately participate in an electronic hearing.

16 I can see now that I should have made these extenuating circumstances
17 clearer to the Division. Had I done so, the Division might not have assumed that I
18 was purposely not participating in the hearing.

19 But even if I had been able to electronically participate, because I anticipated
20 returning back to the United States in time for the hearing, I didn't have any of my
21 files for this case. Unfortunately, because of the situation with my grandmother in
22 Costa Rica, I was not able to return to Nevada in time for the hearing."
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1 Therefore, the Respondent, a non-attorney, was not able to present more
2 specific factual background information to the Commission that would have aided
3 the Commission in reaching its decision as to discipline in these cases. Therefore
4 the Commission lacked knowledge of circumstances that might have allowed for
5 some mitigation in this matter.

6
7 Because of these unfortunate circumstances, the Respondent believes that a
8 basis for granting a rehearing exists under NAC 645.820(7), and that the
9 Commission would, hopefully, be willing to allow the Respondent to present such
10 evidence in mitigation as might provide a basis for the Commission to reconsider
11 portions of the imposed discipline.

12 Therefore, Respondent requests a Rehearing as to discipline imposed in
13 which the Commission will be given additional information as to the specific
14 circumstances that led, unfortunately, to the Respondent's failure to recognize that
15 the agent in his office was in error in representing that he was properly licensed to
16 act in connection with the cited real estate matters.

17
18 Given the unusual nature of the procedural discussions prior to the hearing in
19 this matter, and the impossibility of the Respondent participating by internet
20 connection in the hearing, (In part because of his lack of knowledge about the
21 procedures used in the Commission's hearing process.), the Respondent believes
22 that a Rehearing is appropriate under NAC 645.820(7) and such other NRSs and
23 NACs as may be relevant.

24
25 Of course Respondent's biggest error may have been in attempting to
26 represent himself in this matter without legal representation. As an example, it is
27 true, as stated in the Opposition, that Respondent did not accept settlement options
28 presented to him by the Division. However, as a non-attorney, he did not have any

1 knowledge of the ability to negotiate admissions language that would not require
2 him to accept what he considered an admission of "fraudulent knowledge of doing
3 business with an inactive licensee." Had he had such advice, these matters might
4 not have even gone to hearing.

5 Therefore, if this Request is granted, the Respondent will be able to secure
6 counsel to assist in discussions with the Commission's counsel to limit the matters
7 and evidence to be considered in the Rehearing,, and the Rehearing will not
8 present an undue burden to the Commission and be limited to mitigation factors and
9 issues. There is also the possibility of reaching a stipulated resolution as to
10 discipline and admissions, negating the necessity of having a full Rehearing.
11

12 Therefore, the Respondent requests that he be granted a Rehearing in these
13 cases, so that the Commission may be adequately advised of the full background
14 to make fully informed decisions as the appropriate discipline to be imposed.
15

16 **AFFIRMATION PURSUANT TO NRS 239B.030**

17 By signature below, the undersigned affirms that the preceding document
18 does not contain the social security number of any person.

19 Dated: November 2, 2023.

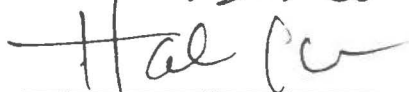
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25 Respondent's Representative