# BEFORE THE REAL ESTATE COMMISSION STATE OF NEVADA

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

Petitioner,

MARSHALL CARRASCO, (B.1000579.INDV)

Respondent.

Case No. 2023-533



NOV 0 1 2023

REAL ESTATE COMMISSION BY Kelly Valac

## RESPONDENT'S ANSWER TO COMPLAINT

COMES NOW, MARSHALL CARRASCO, Respondent, by and through his counsel, ROBERT E. SCHUMACHER, ESQ., and THIERRY V. BARKLEY, ESQ., of GORDON REES SCULLY MANSUKHANI, LLP, and hereby submits the following Answer to the Complaint by the Real Estate Commission of the State of Nevada.

#### JURISDICTION

Respondent admits the allegations as to Jurisdiction.

#### **FACTUAL ALLEGATIONS**

- In answer to Paragraph 1, Respondent admits the allegations therein.
- 2. In answer to Paragraph 2, Respondent admits the allegations therein.
- 3. In answer to Paragraph 3, Respondent admits marketing the solar panels as included; denies each and every remaining allegation in paragraph 3.
  - 4. In answer to Paragraph 4, Respondent admits the allegations therein.
- 5. In answer to Paragraph 5, Respondent admits the subject documents did not expressly reference solar financing or exclusion of solar panels.

- 6. In answer to Paragraph 6, Respondent admits that the escrow proceeded without referenced completion of the solar transfer paperwork; denies each and every remaining allegation in Paragraph 6.
- 7. In answers to Paragraph 7, Respondent denies the allegations therein; Respondent avers he continued to pursue efforts to transfer the solar panels to the buyer after escrow closed.
- 8. In answer to Paragraph 8, Respondent admits that the summary of the arbitration decisions in subsections a, b, c and d of the paragraph were accurately reflected.
- 9. In answer to Paragraph 9, Respondent admits that the arbitration award was entered as noted in paragraph 9; Respondent denies causing the damages.

### **VIOLATIONS OF LAW**

10. Respondent denies the violations of Sections NAC 645.610(1)(a); NRS 645.252(2); and NRS 645.633(1)(h).

#### DISCIPLINE AUTHORIZED

11. Respondent submits that the discipline requested should not be entered as alleged in paragraphs 4, 5 and 6 of this Complaint.

# **AFFIRMATIVE DEFENSES**

#### FIRST DEFENSE

Respondent alleges that the arbitrator erroneously concluded that the Offer and Acceptance stated the solar system was a part of the purchase as referenced all fixtures associated with the property were to be free of liens and encumbrances; Respondent avers that the UCC Financing Statement as recorded on October 8, 2015, indicated that it was a fixture to personal property and not to the real estate; therefore, the UCC-1 Financing Statement did not constitute a lien or encumbrance on the real estate transaction.

# 1 **SECOND DEFENSE** 2 The UCC-1 Financing for fixtures as recorded for the solar panels was not an 3 encumbrance or lien on this real estate transaction. 4 THIRD DEFENSE 5 While the Title Company identified the recorded UCC-1 Fixture lien (which was 6 recorded for the protection of Solar City/Tesla), the Title Company issued title insurance without 7 clearing the cloud on title before escrow closed. 8 9 WHEREFORE, Respondent requests the Real Estate Commission of the State of Nevada 10 find in favor of Respondent and to deny the entry of violations and request for disciplinary 11 action. 12 DATED this 1<sup>st</sup> day of November, 2023. 13 GORDON REES SCULLY MANSUKHANI, 14 LLP 15 ROBERT E. SCHUMACHER, ESO. 16 Nevada Bar No. 7504 17 THIERRY V. BARKLEY, ESQ. Nevada Bar No. 724 1 East Liberty Street, Suite 424 18 Reno, NV 89501 19 Telephone: (775) 467-2610 Facsimile: (775) 460-4901 rschumacher@grsm.com 20 tbarkley@grsm.com 21 22 23 24 25 26 27 28

L	<u>CERTIFICATE OF SERVICE</u>	
2		Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that I am an
3	employee of Gordon Rees Scully Mansukhani and that on this date, I served a true and correct copy of	
4	the attached document(s) as follows:	
5		
6	_ X _	By placing the document(s) in a sealed envelope with first-class U.S. postage prepaid, and depositing it for mailing with the U.S. Postal Service in Reno, Nevada addressed to the person at the address listed below.
7 8		By electronic service. By filing the document with the court's electronic filing system which serves counsel listed below electronically.
9		By personally delivering the document(s) listed above, addressed to the person at the address as set forth below.
11		By Federal Express.
2		By facsimile.
3	X	By electronic mail
14	Real Estate Division State of Nevada ATTN: Legal Administrative Officer 3300 West Sahara Avenue, Suite 350 Las Vegas, NV 89102 Kvaladez@red.nv.gov	
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16		
17	Christal P. Keegan, Esq. Deputy Attorney General 5420 Kietzke Lane, #202 Reno, NV 89511 ckeegan@ag.nv.gov	
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20	DATED this 15th day of November, 2023.	
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22		Sam Baker
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