

1 BEFORE THE REAL ESTATE COMMISSION

2 STATE OF NEVADA

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

7 Petitioner,

8 vs.

9 DAVID MICHAEL TORTIA,
10 BS.0146142,

11 Respondent.

Case No. 2023-314

FILED

NOV 21 2024

REAL ESTATE COMMISSION

BY *Kelley Valadez*

12 **STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION**

13 This Stipulation for Settlement of Disciplinary Action (“Stipulation”) is entered into by and
14 between the State of Nevada, Department of Business and Industry, Real Estate Division (“Division”),
15 through its Administrator Sharath Chandra (“Petitioner”), by and through their attorney of record, Phil
16 W. Su, Esq., and DAVID MICHAEL TORTIA, (“RESPONDENT”).

17 RESPONDENT, at all relevant times mentioned in this Complaint, was actively licensed as a
18 Broker-Salesperson (BS.0146142). RESPONDENT is, therefore, subject to the jurisdiction of the
19 Division and the Commission, and the provisions of NRS Chapter 645 and NAC Chapter 645. As of the
20 date of this Complaint, RESPONDENT’S broker’s license is in “active” status.

21 **SUMMARY OF FACTUAL ALLEGATIONS SET FORTH IN COMPLAINT**

22 1. At all times relevant to this Complaint, RESPONDENT was registered as a broker-
23 salesperson with Coldwell Banker- Premier Realty, under the supervision of Broker Robert H. Hamrick
24 [NRED0002-0003].

25 2. At all times relevant, RESPONDENT also served as principal of Mokolumne Investments,
26 LLC, through which he made real estate investment proposals to COMPLAINANTS Vianey Cabrera and
27 Judith Maceo (collectively, the COMPLAINANTS). [NRED 0005-0006].

28 3. On April 20, 2023, the Division received a Statement of Fact from COMPLAINANTS
Vianey Cabrera and Judith Maceo (collectively, the COMPLAINANTS), alleging that they had remitted

1 a total of \$135,000.00 to Mokelumne Investments, LLC to jointly purchase five investment properties on
2 behalf of the COMPLAINANTS and Mokelumne Investments, LLC. [NRED0008-0011].

3 4. The investment properties were:

- 4 ● 7391 Villa Pintura, Las Vegas, NV 89131;
- 5 ● 3021 Savona Circle, Las Vegas, NV, 89128;
- 6 ● 4009 Coleman, N. Las Vegas, NV 89032;
- 7 ● 4296 Aspen Street, Las Vegas, NV 89147; and
- 8 ● 4730 San Rafael, Las Vegas, NV 89120,

9 for each of which RESPONDENT represented Mokelumne Investments, LLC and the
10 COMPLAINANTS in the real estate transactions. [NRED0008-0011].

11 5. The \$135,000.00 in funds were remitted to COMPLAINANT December 14, 2020, and
12 March 1, 2021, via zelle, cashier's check, or bank wire. [NRED0010-0046].

13 6. On February 17, 2023, RESPONDENT entered into a promissory note agreement with
14 COMPLAINANTS for \$200,000.00, which purported to account for the funds invested with
15 RESPONDENT and expected profit from those investments. [NRED0010-0011].

16 7. The COMPLAINANTS allege that RESPONDENT has failed to submit any payments
17 under the promissory note as of the date of their Statement of Fact to the Division. [NRED 0011].

18 8. The COMPLAINANTS further allege that RESPONDENT intentionally misrepresented
19 purchases of the properties by sending them "bogus" Deeds of Trust for the 7931 Villa Pintura and 3021
20 Savona properties, along with "Straight Notes" for both properties, prepared by RESPONDENT himself,
21 rather than by any Trustee. [NRED0010; 0012-0026].

22 9. The COMPLAINANTS further allege that instead of repaying the note, RESPONDENT
23 invested in another property, 4045 Abernethy Forest Place, Las Vegas, NV 89141. [NRED 0011].

24 10. On April 28, 2023, the Division issued an open investigation letter to RESPONDENT, c/o
25 his attorney, Charles Damus, Esq., regarding the Statement of Fact and requesting his response via
26 affidavit. [NRED0047-0048].

27 11. That same day, the Division issued an open investigation letter to RESPONDENT'S
28 broker of record at Coldwell Banker- Premier Realty, Robert Hambrick. [NRED0049-0050].

1 12. On May 16, 2023, RESPONDENT submitted a responsive affidavit, asserting that, for
2 various reasons, three of the contemplated investment properties did not close and that he entered into
3 the promissory agreement in good faith and intended to comply with the settlement, but had not yet made
4 any payments to COMPLAINANTS upon the advice of his attorney. [NRED0051-0057].

5 13. On May 16, 2023, Broker Robert Hamrick submitted a responsive affidavit, asserting that
6 he was unaware of the investment relationship between RESPONDENT and COMPLAINANTS until
7 contacted by the Division; that the Complainants were investors, rather than clients of Coldwell Bank-
8 Premier Realty; and that the brokerage was not in receipt of the 4296 Aspen transaction documentation
9 since it did not proceed past negotiations. [NRED0058-0065].

10 14. Broker Hamrick also provided transaction files for the following properties: 4009
11 Coleman; 4730 San Rafael (both buyer and seller); 7931 Villa Pintura; and 4045 Abernethy Forest Place.
12 [NRED0066-0296]

13 15. On October 4, 2023, the Division mailed an NRS 233B letter via certified mail to
14 RESPONDENT, stating the Division's intent to file a complaint with the Commission for violations of
15 NRS 645.633(1)(h) pursuant to NAC 645.605(1) and NRS 645.633(1)(i) pursuant to NAC 645.605(1).
16 [NRED0297-0300].

17 **SUMMARY OF ALLEGED VIOLATIONS OF LAW**

18 1. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(1) by engaging
19 in gross negligence and/or incompetence by failing to do his utmost to protect the public against fraud,
20 misrepresentation or unethical practices related to real estate, when he failed to abide by the terms of his
21 February 2023 promissory note.

22 2. RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605(1) by willfully
23 and/or knowingly engaging in deceitful, fraudulent and dishonest dealing when he failed to abide by the
24 terms of his February 2023 promissory note.

25 3. RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605(1) by willfully
26 and/or knowingly engaging in deceitful, fraudulent and dishonest dealing by making intentionally vague
27 and misleading representations regarding the significance of exemplar Deeds of Trust and Notes prepared
28 by RESPONDENT, rather than by any Trustee.

1 **PROPOSED SETTLEMENT**

2 By entering into this Stipulation, the RESPONDENT does not admit the above factual allegations
3 but agrees to waive his right to contest the above alleged violations if the Stipulation is approved by the
4 Commission. Accordingly, in an effort to avoid the time and expense of litigating these issues before the
5 Commission, as well as any possible further legal appeals from any such decision, and the parties desire
6 to compromise and settle the instant controversy upon the following terms and conditions:

7 1. RESPONDENT agrees to pay the Division a total amount of SEVEN THOUSAND
8 FOUR HUNDRED SEVENTY FOUR DOLLARS and 20/100 cents (\$7,474.20) (“Amount Due”),
9 consisting of zero administrative fine imposed by the Division, the Division’s pre-hearing costs and fees
10 in the amount of \$800.00, and pre-hearing attorney’s fees in the amount of \$6,674.20.

11 a. The Amount Due shall be payable to the Division in full within sixty (60) days of
12 the date of the order approving this settlement.

13 b. No grace period is permitted. If the payment is not actually received by the
14 Division on or before its due date, it shall be construed as an event of default by
15 Respondent.

16 2. RESPONDENT agrees to voluntarily surrender all current licenses, permits, and
17 certificates issued by Division to him, including but not limited to his Broker-Salesperson license
18 (BS.0146142), within five (5) business days from the date of the order approving this settlement.
19 RESPONDENT further agrees that he will not re-apply for any license, permit, or certificate with the
20 Division for a period of ten (10) years from the date of the order approving this settlement.

21 3. RESPONDENT and the Division agree that by entering into this Stipulation, the
22 Division does not concede any defense or mitigation RESPONDENT may assert and that once this
23 Stipulation is approved and fully performed, the Division will close its file in this matter.

24 4. The Division agrees not to pursue any other or greater remedies or fines in connection
25 with RESPONDENT’S alleged conduct referenced herein. The Division further agrees that unless
26 RESPONDENT fails to make timely payment, the Division will not bring any claim or cause directly or
27 indirectly based upon any of the facts, circumstances, or allegations discovered during the Division’s
28 investigation and prosecution of this case.

1 5. RESPONDENT agrees and understands that by entering into this Stipulation
2 RESPONDENT is waiving his right to a hearing at which RESPONDENT may present evidence in his
3 defense, his right to a written decision on the merits of the complaint, his rights to reconsideration and/or
4 rehearing, appeal and/or judicial review, and all other rights which may be accorded by the Nevada
5 Administrative Procedure Act, the Nevada Real Estate Brokers and Salespersons statutes and
6 accompanying regulations, and the federal and state Constitutions. RESPONDENT understands that this
7 Agreement and other documentation may be subject to public records laws. The Commission members
8 who review this matter for approval of this Stipulation may be the same members who ultimately hear,
9 consider, and decide the Complaint if this Stipulation is either not approved by the Commission or is not
10 timely performed by RESPONDENT. RESPONDENT fully understands that he has the right to be
11 represented by legal counsel in this matter at his own expense.

12 6. RESPONDENT shall bear his own attorney's fees and costs.

13 7. Approval of Stipulation. Once executed, this Stipulation will be filed with the
14 Commission and will be placed on the agenda for approval at its next public meeting. The Division will
15 recommend to the Commission approval of the Stipulation. RESPONDENT agrees that the Commission
16 may approve, reject, or suggest amendments to this Stipulation that must be accepted or rejected by
17 RESPONDENT before any amendment may be considered effective.

18 8. Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests
19 amendments unacceptable to RESPONDENT, RESPONDENT may withdraw from this Stipulation, and
20 the Division may pursue its Complaint before the Commission.

21 9. Stipulation is Not Evidence. Neither this Stipulation nor any statements made
22 concerning this Stipulation may be discussed or introduced into evidence at any hearing on the
23 Complaint, if the Division must ultimately present its case based on the Complaint filed in this matter.

24 10. Release. In consideration of the execution of this Stipulation, RESPONDENT for
25 himself, his heirs, executors, administrators, successors, and assigns, hereby releases, remises, and
26 forever discharges the State of Nevada, the Department of Business and Industry, and the Division, and
27 each of their respective members, agents, employees, and counsel in their individual and representative
28 capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions,

1 claims, and demands whatsoever, known and unknown, in law or equity, that RESPONDENT ever had,
2 now has, may have, or claim to have against any or all of the persons or entities named in this section,
3 arising out of or by reason of the Division's investigation of this action, this disciplinary action, and all
4 matters related thereto.

5 11. Indemnification. RESPONDENT hereby agrees to indemnify and hold harmless the
6 State of Nevada, the Department of Business and Industry, Petitioner, the Division, and each of their
7 respective members, agents, employees, and counsel, in their individual and representative capacities,
8 against any and all claims, suits, and actions brought against said persons and/or entities by reason of the
9 Division's investigation, this disciplinary action, and all other matters relating thereto, and against any
10 and all expenses, damages, and costs, including court costs and attorney fees, which may be sustained by
11 the persons and/or entities named in this section as a result of said claims, suits, and actions.

12 12. Default. In the event of default, RESPONDENT agrees that all of his active licenses
13 and permits issued by the Division shall be immediately suspended, and the unpaid balance of the
14 administrative fine and costs, together with any attorney's fees and costs that may have been assessed,
15 shall be due in full to the Division within ten calendar days of the date of default. Debt collection actions
16 for unpaid monetary assessments in this case may be instituted by the Division or its assignee.
17 RESPONDENT agrees that the foregoing suspensions shall continue until the unpaid monetary
18 assessments are paid in full.

19 13. RESPONDENT confirms that he has signed and dated this Stipulation only after
20 reading and fully understanding all terms herein.

21 DATED this 12 day of November, 2024.

DATED this 12 day of November, 2024.

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25 By: 
26 DAVID MICHAEL TORTIA
27 Respondent

NEVADA DEPARTMENT OF BUSINESS AND
INDUSTRY, REAL ESTATE DIVISION
28
By: 
SHARATH CHANDRA
Administrator

1 Approved as to form:

2 AARON D. FORD
3 Attorney General

4 By: /s/ Phil W. Su
5 PHIL W. SU (Bar No. 10450)
6 Senior Deputy Attorney General
7 1 State of Nevada Way, Ste. 100
8 Las Vegas, Nevada 89119
9 (702) 486-34655
10 *Attorneys for Real Estate Division*

11 **ORDER APPROVING STIPULATION**
12 **Case No. 2023-314**

13 The Stipulation for Settlement of Disciplinary Action having come before the Real
14 Estate Commission, Department of Business and Industry, State of Nevada, during its
15 regular agenda on November 19-21, 2024, and the Commission being fully apprised in the
16 premises, and good cause appearing,

17 IT IS ORDERED that the above Stipulation for Settlement of Disciplinary Action is
18 approved in full.

19 Dated: this 21 day of November 2024.

20 REAL ESTATE COMMISSION
21 STATE OF NEVADA

22 By: 
23 President, Nevada Real Estate Commission
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