

Open House

A newsletter for Nevada Real Estate Licensees

Department of Business & Industry

July / Aug / Sept 2017

The Mission of the Nevada Real Estate Division

To protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education and enforcement.

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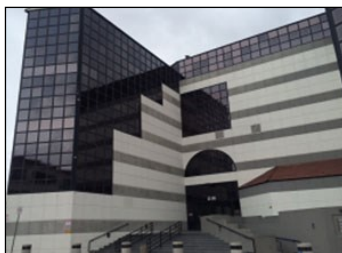
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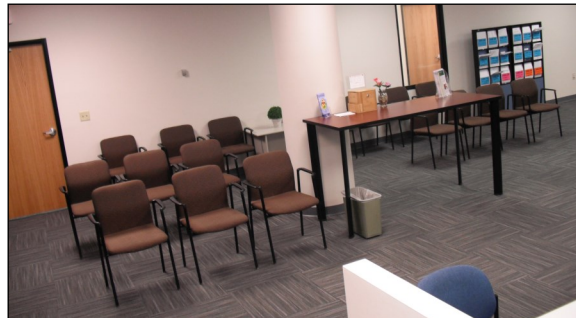
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A LOOK AT OUR NEW LOCATION



In March 2017, the Real Estate Division moved its Las Vegas office to the Nevada State Business Center at 3300 W. Sahara Ave. Plenty of street and building signage makes for easy access to parking on the 2nd level and the spacious and welcoming customer service area, pictured here, on level 3 in Suite 350.



ETHICS IN GOVERNMENT

Ethics in Government or Ethics Law (NRS 281A) establishes the standards of conduct for public officers who, in the course of their public service, might encounter situations with a potential for conflict between

their public duties and private interests.

The law requires a public officer to publicly disclose information about private relationships and pecuniary

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... ETHICS IN GOVERNMENT

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STATE OF NEVADA
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BRUCE H. BRESLOW
Director

REAL ESTATE DIVISION

SHARATH CHANDRA
Administrator

SAFIA ANWARI
*Education
& Information Manager*

CHAD FREEMAN
Publications Writer

LAS VEGAS OFFICE
3300 W. Sahara Avenue
Suite 350
Las Vegas, NV 89102-3200
(702) 486-4033

CARSON CITY OFFICE
1818 E. College Parkway
Suite 110
Carson City, NV 89706-7986
(775) 684-1900

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NEVADA REAL ESTATE COMMISSION

NEIL SCHWARTZ
President
Clark County

DEVIN REISS
Vice President
Clark County

LEE K. BARRETT
Secretary
Clark County

NORMA JEAN OPATIK
Commissioner
Nye County

WAYNE CAPURRO
Commissioner
Washoe County

(Continued from page 1)

interests that could reasonably affect the public officer's decisions on matters that come before the agency or board on which the officer serves. Where such a relationship or interest would materially affect the independence of judgment of a reasonable person in his position, the public officer must abstain from voting or acting on the matter. NRS 281A.420 (3).

NRS 281A defines "public officer" as a person elected or appointed to a position which is established by the Nevada Constitution, a state statute or a charter or ordinance of any county, city or other political subdivision. As defined, the term includes members of the Real Estate Commission, and as determined by the Ethics Commission, also those who serve on planning commissions.

To be an elected or appointed member of a public body does not in and of itself create a need to disclose that the public officer is a real estate professional in their private capacity. The disclosure and abstention provisions apply only when, while acting as a public officer, the impartiality of the agent's decision regarding a matter under consideration would be affected by private interests.

Situations that would trigger disclosure would include, for instance, "when the planning commission votes on whether to grant a rezoning request for a property listed by the agent, the agent must disclose his pecuniary interest in the property resulting from expected commission on the sale of the property. Abstention would also be required if the independence of judgment of a reasonable person in the agent's situation would be materially affected by his pecuniary interest in the property."

In the rezoning situation above, "if the property was listed by the agent's broker, the agent must disclose his relationship with the broker. Disclosure would also be required if the property was listed by another agent in the same real estate firm, because the relationships between agents in the same real estate firm create private commitments that implicate the Ethics Law." (Judy A. Prutzman, Esq., Associate Counsel, Commission on Ethics to Tiffany Banks, General Counsel, Nevada Association of Realtors).

Regarding the two latter situations where the property is listed by the agent's broker or another agent in the same firm, the Ethics Commission has held that an independent contractor's "commitment in a private capacity" to the real estate company, including associate agents in the company, mandates disclosure. This ruling puts the onus on public officers to be informed about the "personal and financial interests" of those with whom they have business associations. Lack of knowledge "does not negate the potential conflict".

A real estate licensee who is a member of a homeowner's association (HOA) board is not considered a "public officer" under the NRS 281A definition. ◀

This article has been produced from information contained in communications from Yvonne Nevarez-Goodson, Esq., Executive Director, Commission on Ethics, dated March 14, 2017 to Sharath Chandra, Administrator, Real Estate Division, and between Judy A. Prutzman, Esq., Associate Counsel, Commission on Ethics and Tiffany Banks, General Counsel, Nevada Association of Realtors, dated May 4, 2017.

BROKER ANNUAL REPORTING TO THE DIVISION IS MANDATORY

Every year, every broker who has been an active real estate practitioner for all or part of that year is required to report to NRED regarding client funds received or not received by her or him during the course of doing business. This duty to annually file trust accounting reconciliations with NRED by the expiration date of the broker's license is contained in [NAC 645.806](#).

In April 2016, [NAC 645.806](#) was amended by LCB file R097-14 in two important ways:

1. The regulation now specifies

the types of client or trust fund activities that would activate the submission of trust account reconciliations. In addition to rents and security deposits, trust funds include down payments, advance fees and earnest money deposits.

2. It expressly directs a broker who does not receive or handle any trust funds to declare that he or she is not required to provide trust account reconciliation.

To reiterate, every broker, every year must submit to the Division **either** trust account reconciliation **or** a declaration by the

expiration date of the broker's license. For example if your broker real estate license expires in the month of July, you are required to submit either form no later than July 31st EVERY YEAR. Forms 546 and 546A, respectively, are available for this purpose at: <http://red.nv.gov/Content/Forms/Compliance/>.

A failure to timely comply with the trust account reporting now carries a penalty ([NAC 645.695](#)): \$1,000 for the reconciliation; \$250 for the declaration. ◀

DID YOU KNOW ...?

\$500. That is the minimum penalty that a licensee could incur for failing to include the broker's name in their advertising. The requirement to include company name, and the other NRS and NAC 645 provisions regarding advertising, apply to all real estate marketing through any medium - print and electronic. Compliance is easy – simply add the name of the brokerage company so that it is

“clearly identified with prominence” in your advertising. ...

NRED's online education calendars are a great resource for licensees in need of continuing or post licensing education. The calendars are updated weekly and separately marked by designation (or session for post licensing education) to make selection of

courses quick and hassle-free. For those who prefer to study at their own pace, there is a monthly-updated list of approved distance education courses, also split by designation. The site, <http://red.nv.gov>, provides the fullest available range of real estate education. Licensees are encouraged to use this service to plan out their license renewal education over the course of the renewal period. ◀

Disciplinary Actions / Stipulations

ACTIONS/DECISIONS

Real Estate Commission actions are not published in this newsletter until the 30-day period allowed for filing for Judicial Review has passed.

A Respondent's license is automatically suspended for failure to comply with a Commission Order, and the Division may institute debt collection proceedings to recover fines and costs.



ALLEGATIONS/STIPULATIONS

Stipulations occur when both the Respondent and Division have agreed to settlement conditions. A stipulation may or may not be an admission of guilt. Stipulations are presented to the Commission for final approval.

NAME	EFFECTIVE DATE / HEARING TYPE	ALLEGATIONS/ VIOLATIONS	DISCIPLINE/ SETTLEMENT
JAMES REESE BS.1000761 (Revoked) PM.165274 (Revoked)	March 2017 Uncontested	Respondent pled guilty in the Eighth Judicial District Court to the gross misdemeanor of conspiracy to unlawfully receive a fee, salary, deposit or money to obtain a loan for another. By being convicted of a crime involving fraud, deceit, misrepresentation or moral turpitude, he violated NRS 645.633(1)(d)(2) .	\$10,500 fine. Real estate license and property manager permit revoked.
VICKIE VALDOV B.3475 (Active) PM.162739 (Active)	February 2017 Stipulated Settlement	Allegedly failed to maintain adequate supervision of a salesperson associated with the broker, thereby violating NRS 645.660(3) . Respondent was not found to have violated any law or statute.	\$2,500 fine.
AMY TOMLIN S.63797 (Revoked) PM.163473 (Revoked)	February 2017 Uncontested	Pled guilty to theft of at least \$104,000 of client funds before the Eighth Judicial District Court in and for Clark County. Respondent violated NRS 645.630(1)(h) by commingling the money or other property of her clients with her own or converting the money of others to her own use and violated NRS 645.633(1)(d)(1) by being convicted of and/or entering a plea of guilty to a felony relating to her real estate practice.	\$20,000 fine. Real estate license and property manager permit revoked.

Disciplinary Actions / Stipulations (Continued)

NAME	EFFECTIVE DATE/ HEARING TYPE	ALLEGATIONS/ VIOLATIONS	DISCIPLINE/ SETTLEMENT
WILLIAM (BILL) WOOD B.1623 (Revoked) PM.163158 (Revoked) BUSB.6772.BKR (Revoked)	February 2017 Stipulated Settlement	Violated NRS 645.630(1)(h) by commingling and converting client funds, transferring them electronically from client's main operating trust into his firm's business operating account, and by withdrawing cash from the client's main operating trust. The total amount of misappropriated client funds was \$233,314.56, with cash withdrawals of \$3,552 and a total of \$229,762.56 transferred. Respondent also violated NRS 645.633(1)(h) by committing conduct which constitutes deceitful, fraudulent or dishonest dealing pursuant to NAC 645.605(1) by failing to do his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate.	\$20,000 fine. All real estate licenses, his business broker permit and his property management permit revoked. Agreed to not apply for any real estate license or permit in Nevada for 10 years.
MARY E. MCQUATTIE BS.23321 (Active)	December 2016 Uncontested	Entered into a brokerage agreement and failed to include a fixed date of expiration, a violation of NRS 645.633(1)(f) . Incompetently prepared an Exclusive Right to Sell Contract, failing to provide her clients with a compensation fee or commission schedule that was supposedly attached as Exhibit B, a violation of NRS 645.633(1)(h) . Also, violated NAC 645.610(e) pursuant to NAC 645.695(1) by advertising under the nickname "Missy," which is not the name under which she is licensed by the Division.	\$10,500 fine. Agency: 3 hours Contracts: 3 hours Ethics: 3 hours
MICHAEL (MIKE) CULLUM HARDING S.169701 (Voluntary Revocation)	April 2017 Stipulated Settlement	Violated NRS 645.633(1)(i) pursuant to NAC 645.605(1) by fraudulently misrepresenting that a property was listed on the MLS to generate open market competitive offers, while there was actually an existing business relationship with a prearranged buyer.	Voluntary revocation of salesperson license. Agrees to not apply for a license to engage in real estate sales in Nevada for a period of 10 years.

**3,572
EXPIRED**

As of May 2017, the following number of real estate licenses in the Division system are expired:

- Broker: 489
- Broker-Salespersons: 635
- Salespersons: 2,448
- Total: 3,572

A real estate license must be renewed within one year of its expiration date or it will be permanently closed. To check the status of a license, go to [License Lookup](http://red.nv.gov) at <http://red.nv.gov>.

Disciplinary Actions / Stipulations (Continued)

NAME	EFFECTIVE DATE/ HEARING TYPE	VIOLATION OR STIPULATION	DISCIPLINE/ SETTLEMENT
PATTY STEELMAN B.1001791 (Active)	May 2017 Contested	Failed to disclose in writing to complainant that she was a licensee of the Nevada Real Estate Division, violation of NAC 645.640(1)(b) pursuant to NRS 645.633(1)(b) . Also, failed to return complainant's pet deposit portion of the security deposit within a reasonable time in the management of her personal rental property.	\$1,000 fine.
JASON A. JAIRAM S.170866 (Voluntary Revocation)	April 2017 Stipulated Settlement	Respondent failed to review and sign affidavits required in two separate short sales and presented them to the bank on behalf of himself and his clients. Additionally, failed to disclose that his client was a member of the investor group, which was a prearranged buyer of the transactions.	Voluntary revocation of salesperson license. Agrees to not apply for a license to engage in real estate sales in Nevada for a period of 10 years.
GARRETT EUGENE LEPIRE S.57606 (Active)	May 2017 Contested	Respondent violated NRS 645.358(1)(b) and NRS 645.633(1)(j) by misrepresenting the status of his compliance with child support orders and thereby failing to comply with the licensing statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services in NRS 425.520 .	Respondent ordered to reimburse the Division for its investigation and hearing cost.
R. JEFFREY LOWDEN B.62387 (Active) PM.165611 (Active)	May 2017 Contested	Violated NRS 645.630 pursuant to NRS 645.635(1) by offering property for sale on a website after the expiration of the Exclusive Representation Agreement and without the knowledge of the owner or the owner's authorized agent. Additionally, violated NRS 645.633(1)(h) pursuant to NAC 645.605(7) and NRS 645.320 by failing to ensure his signature, as the broker, was included on the Exclusive Representation Agreement.	\$1,000 fine. Broker Management: 3 hours Property Management: 3 hours Contracts: 3 hours

Disciplinary Actions / Stipulations (Continued)

NAME	EFFECTIVE DATE/ HEARING TYPE	ALLEGATIONS/ VIOLATIONS	DISCIPLINE/ SETTLEMENT
PATRICIA PRASAD B.1000447 (Voluntary Downgrade) B.28874.LLC (Voluntary Downgrade) PM.164351 (Voluntary Revocation)	February 2017 Stipulated Settlement	As a broker, violated NRS 645.633(1)(k) by knowingly permitting a person whose license had been revoked to engage in unlicensed activities on her behalf, resulting in grossly negligent management of a property. In addition, respondent failed to: adequately supervise her employees; timely remit a security deposit; maintain a trust account designated for security deposits; and produce documents requested by the Division. Also, maintained a custodial or trust account from which money was withdrawn without respondent's signature, and paid a Division fine from client funds thereby converting the funds to her own personal use.	\$15,000 fine. Voluntary revocation of property management permit. Agreed to not apply for a property management permit in the State of Nevada for ten years and agreed to not apply for any other real estate license in the state for a year. Agreed to downgrading of real estate licenses to a salesperson license. Broker management: 15 hours Ethics: 6 hours Law and Legislation: 9 hours

DIVISION UPDATES

NEW HIRES

Real Estate Education

Elaine Rodriguez, Administrative Assistant III
 Sherri O'Boyle, Administrative Assistant II
 Carla Slater, Administrative Assistant

Real Estate Compliance

Ann Angell, Investigator II

Ombudsman's Office

Charvez Foger, Ombudsman
 Monique Williamson, Program Training Officer
 Shareece Bates, Administrative Assistant

CIC Compliance

Gabriele Morales-Lopez, Administrative Assistant II

Inspector of Structures/Energy Auditors

Kate Morra, Program Officer

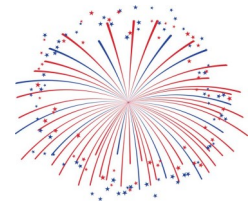
POSITION CHANGE

Administration

Sharon Jackson, Deputy Administrator

UPCOMING HOLIDAYS

The offices of the Nevada Real Estate Division will be closed on:



**Tuesday, July 4
Independence Day**



**Monday, September 4
Labor Day**



Nevada State Business Center

Directions to parking garage access due to construction at the main entrance.

Public parking is on level 2. From the garage, follow the signage to the main entrance.



Real Estate Statistics through May 2017

	BROKER		BROKER SALESPERSON		SALESPERSON		TOTALS	
County	Active	Inactive	Active	Inactive	Active	Inactive	Active	Inactive
Unknown	42	0	37	6	186	24	265	30
Carson City	40	27	41	9	147	31	228	67
Churchill	12	9	5	2	51	8	68	19
Clark	1,783	401	2,217	381	12,673	1,696	16,673	2,478
Douglas	68	15	70	17	239	38	377	70
Elko	19	3	18	6	70	16	107	25
Esmeralda	0	0	0	0	1	0	1	0
Eureka	1	1	0	0	1	0	2	1
Humboldt	6	4	3	4	26	0	35	8
Lander	2	1	2	0	4	0	8	1
Lincoln	3	1	0	0	5	2	8	3
Lyon	27	10	20	7	114	16	161	33
Mineral	1	0	0	0	2	1	3	1
Nye	32	10	14	10	106	22	152	42
Out Of State	307	95	218	104	554	227	1,079	426
Pershing	1	1	1	0	1	0	3	1
Storey	1	0	2	0	2	3	5	3
Washoe	393	182	404	105	2,114	272	2,911	559
White Pine	3	0	3	1	5	3	11	4
Total	2,741	760	3,055	652	16,301	2,359	22,097	3,771