BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. BEVERLY SCHAEFFER, Respondent.	**Case No. 2019-6**

FILED

FEB 07 2020

REAL ESTATE COMMISSION

BY Evelyn Lattee

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies BEVERLY SCHAEFFER (RESPONDENT), of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

JURISDICTION

RESPONDENT BEVERLY SCHAEFFER was at all relevant times mentioned in this Complaint, licensed as a broker under B.0143231.LLC and holds a property manager permit and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

GENERAL FACTUAL ALLEGATIONS

1. RESPONDENT is licensed by the Division as a broker under license B.0143231.LLC, which license is currently active and also holds an active property manager permit.

2. RESPONDENT has been licensed in Nevada as a broker since July of 2015.

3. At all relevant times, RESPONDENT was an owner and manager of Choice One Properties & Management L.L.C., a Nevada limited liability company (the "Company") and was engaged in property management.

4. At all relevant times, RESPONDENT's Company managed several residential properties in Clark County, Nevada for owner/landlord clients.

5. On or around December of 2018, some of RESPONDENT's owner/landlord clients began terminating their property management agreements with RESPONDENT after not receiving their monthly rental payments.

6. Licensees who worked with RESPONDENT and RESPONDENT's owner/landlord clients began making complaints with the Division that RESPONDENT was not paying rental payments, was bouncing checks, and was improperly keeping security deposits due to successor property management companies hired after RESPONDENT's services were terminated.

7. In November of 2018, Michael Zeng ("Zeng") filed a complaint with the Division on behalf of 21 complainant owners/landlords claiming that RESPONDENT failed to pay them their rental payments timely or had failed to pay them any rental payments at all.

8. Zeng is a licensee with the Division and RESPONDENT's Company was his broker.

9. In December of 2018, Zeng transferred his license from RESPONDENT's Company to Evolve Realty LLC, a Nevada limited liability company ("Evolve") after receiving complaints from owners/landlords that they were not timely receiving their rent payments from RESPONDENT.

10. When Zeng left RESPONDENT's Company, 21 of the Company's owner/landlord clients of thirty-eight properties took their business to Evolve.[1]

11. When Zeng left RESPONDENT's Company, the owners/landlords signed addendums instructing RESPONDENT's Company to transfer their management agreements and their tenant security deposits to Evolve.

12. At the time of Zeng's departure from RESPONDENT's Company, RESPONDENT had failed to transfer tenant security deposits to Evolve in the amount of approximately $76,055 dollars.

[1] These owners/landlords along with the respective properties that they own, along with all other complainant owners/landlords, are set forth on Exhibit "1," attached hereto and incorporated by reference herein. The general allegations set forth in this complaint apply to each and every complainant and/or owner/landlord set forth on Exhibit "1."

13. To date, RESPONDENT has failed to transfer the tenant security deposits and management agreements to Evolve.

14. RESPONDENT owes in excess of $67,632.50 to the 21 complainant owners/landlords managed by Evolve.

15. On March 6, 2019, the Division properly notified RESPONDENT that it was opening an investigation based on the received complaints and also requested a written response from RESPONDENT along with the following documents: (1) complete Broker's transaction file for the 38 properties involved in the complaint brought by Zeng, and (2) copies of bank statements from July 2018 to December 2018 for both the client trust and security deposit trust accounts.

16. RESPONDENT failed to respond to the Division's March 6th letter and also failed to respond to subsequent letters from the Division requesting documents.

17. On or around August 5, 2019, Ruth A. Collier ("Collier") filed a complaint with the Division against RESPONDENT.

18. Collier was the owner of two rental properties located at 8729 Pennystone Avenue in Las Vegas, Nevada ("Pennystone Property") and 9756 Horse Back Circle in Las Vegas, Nevada ("Horse Back Property").

19. Collier hired RESPONDENT to manage both the Pennystone Property and the Horse Back Property on or around April 2016 and Spring of 2018, respectively.

20. As of August of 2019, RESPONDENT failed to pay Collier approximately $3,600 dollars for the Horse Back Property and approximately $1,800 dollars for the Pennystone Property.

21. Subsequently, on or around of June 13, 2019, Collier hired Strawberry Property Management LLC, a Nevada limited liability company ("Strawberry") to manage both the Pennystone Property and the Horse Back Property.

22. RESPONDENT failed to provide Strawberry with the leases, cleaning and security deposits, and owner's statements.

23. To date, RESPONDENT owes Collier in excess of $5,400 dollars.

24. Richard Crowder ("Crowder") also filed a complaint with the Division against RESPONDENT claiming that RESPONDENT owed him approximately $5,859 dollars for rents paid in April, May, and June of 2019 ("Rental Payments Owed").

25. On August 7, 2019, after having not received the Rental Payments Owed, Crowder contacted RESPONDENT who stated that she would "check on this right away."

26. On August 10, 2019, RESPONDENT informed Crowder that she was no longer managing properties.

27. Despite the fact that she was no longer managing properties, RESPONDENT failed to advise Crowder of the same even though she took her management fee for all three months of April, May, and June of 2019 and did not pay Crowder the Rental Payments Owed.

28. David Robinson ("Robinson") also filed a complaint on behalf of his family who owns seven rental properties and used RESPONDENT's Company for property management services.

29. RESPONDENT failed to pay rental payments on properties located at 10279 Whispy Willow Way, 10305 Bayhead Beach Ave., and 6820 Groningen Ct, and 9021 Rusty Rifle Way in the amount of $19,507 dollars.

30. Subsequently, Robinson changed management companies and hired Robinson Realty Management.

31. To date, RESPONDENT has failed to transfer the management agreements and lease agreements to Robinson Realty Management.

32. RESPONDENT has also failed to transfer security deposits for the seven properties to Robinson Realty Management in the amount of $9,675 dollars.

33. On or around January 1, 2019, RESPONDENT sold her property management accounts to Evolve.

34. Jay-son Low ("Low") is Evolve's broker and one of Evolve's managing members.

35. When Low turned Evolve's 2019 Security Trust Account Reconciliations into the Division for the accounts purchased from RESPONDENT, the account reconciliation showed a negative balance of $83,437.50 when the account should have had a balance of $174,032.70.

36. In her operating of the Company, RESPONDENT failed to submit any Trust Account Reconciliations what-so-ever to the Division and was issued a fine.

37. In the Division's investigation, RESPONDENT's Company's bank records were subpoenaed.

38. The Company's bank records showed RESPONDENT used the Company's client trust accounts to pay her personal credit card bills.

39. The Company's bank records showed RESPONDENT used the Company's primary account to transfer money in and out of all accounts she established on behalf of the Company as well to transfer money in and out of her personal accounts.

40. The Company's bank records showed RESPONDENT commingled her business brokerage account with her rental trust account funds.

41. Respondent failed to designate the Company's rental trust account as a trust account.

42. Respondent failed to provide an accounting of the debits from the rental trust account.

43. The Company's bank records showed RESPONDENT improperly transferred money from the client trust account to the Company's business brokerage account in excess of the amount due to RESPONDENT under her Company's management agreements.

44. The Company's bank records showed RESPONDENT improperly made rental payments to owners/landlords from the Company's business brokerage account instead of from the client trust rental operational account.

45. The Company's bank records showed RESPONDENT improperly transferred money from her personal bank account into the client rental trust account and then into her business brokerage account.

46. During her management of the Properties, RESPONDENT failed to maintain a separate trust account for the money held in trust for the owners/landlords.

47. RESPONDENT commingled her brokerage and personal account funds with rental trust account funds.

48. During her management of the Properties, RESPONDENT co-mingled her personal funds with the Company's funds.

49. During her management of the Properties, RESPONDENT converted and/or embezzled money belonging to owners/landlords to herself and/or her Company.

50. Also, as background, in 2012, the State of California suspended RESPONDENT's real estate license.

51. The California Real Estate Division opened Case No. H-37137 LA against RESPONDENT after an audit was conducted that showed from March of 2008 to August of 2008, RESPONDENT collected rents from tenants but failed to place those rents in a trust account, failed to maintain accurate control and reconcile trust accounts monthly, and converted funds in the amount of $11,330.30.

52. On February 9, 2012, the State of California Commission Board entered an Order Accepting Voluntary Surrender of Real Estate License for RESPONDENT and forced RESPONDENT to pay the costs of the audit.

VIOLATIONS

RESPONDENT has committed the following violations of law:

RESPONDENT violated NRS 645.6056 on 24 separate occasions by failing to abide by the terms of the fully executed property management agreements with owners/landlords.

RESPONDENT violated NRS 645.6056 by failing to notify Crowder that she was no longer conducting property management services on Crowder's behalf.

RESPONDENT violated NRS 645.630(1)(h) by commingling her money or other property of a client with her own or converting and/or embezzling the money to herself and/or the Company on 22 separate occasions.

RESPONDENT violated NRS 645.310(4) by failing to deposit monies belonging to others in a separate account located in a bank or credit union which must be designated as a trust account.

RESPONDENT violated NRS 645.310(5) that requires a broker to maintain a separate trust account and keep record of all money deposited, including the date and from whom the real estate broker received the money.

RESPONDENT violated NRS 645.630(1)(e) by failing to maintain for review and audit by the Division, each brokerage agreement and property management agreement.

RESPONDENT violated NRS 645.630(1)(f) by failing within a reasonable amount of time, to account for or to remit any money which comes into his or her possession and which belongs to others.

RESPONDENT violated NRS 645.630(1)(g) by failing to balance the trust account at least monthly and by failing to submit to the Division an annual accounting of the trust account.

RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) by breach of her obligation of absolute fidelity to her principal's interest or her obligation to deal fairly with all parties to a real estate transaction on 24 separate occasions.

RESPONDENT violated NAC 645.806 on four different occasions by failing to turn in her annual Trust Account Reconciliations despite the Division's requests to obtain them.

RESPONDENT violated NAC 645.655(1) by failing to provide copies of all management agreements and residential lease agreements RESPONDENT and/or her Company entered into to the Division as requested in its investigation.

DISCIPLINE AUTHORIZED

1. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an administrative fine of up to $10,000 per violation against RESPONDENT and further to suspend, revoke or place conditions on the license of RESPONDENT.

2. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.

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

NOTICE OF HEARING

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

THE HEARING WILL TAKE PLACE on March 10, 2020 commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through March 12, 2020 or earlier if the business of the Commission is concluded. The

Commission meeting will be held on March 10, 2020, at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101. The meeting will continue on March 11, 2020 at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101, commencing at 9:00 a.m., and on March 12, 2020, should business not be concluded, starting at 9:00 a.m. at the Grant Sawyer Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada 89101.

STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same time as part of a regular meeting of the Commission that is expected to last from March 10, 2020 through March 12, 2020, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you have any questions please call Evelyn Pattee, Commission Coordinator at (702) 486-4074.

YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

As the Respondent, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

You have the right to request that the Commission issue subpoenas to compel witnesses to testify and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate

the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

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

DATED this 5th day of February, 2020.

State of Nevada
Department of Business and Industry
Real Estate Division

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