BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. CUNG F. TAM, Respondent.	**Case No. 2018-411**

FILED
OCT 04 2019
REAL ESTATE COMMISSION
BY Emily Pattee

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies RESPONDENT CUNG F. TAM ("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 the 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 was at all relevant times mentioned in this Complaint licensed as a Broker and holds a property management permit in active status and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

FACTUAL ALLEGATIONS

1. RESPONDENT has been licensed as a Broker under license number B.0016381.LLC since December 6, 2005 and holds a property management permit, and is currently in active status.

2. On May 24, 2011 Billion-Aire LLC, a California limited liability company, through its member, Shuanghong Kall ("Landlord"), entered into a Residential Property Management Agreement ("Property Management Agreement") with Golden River Realty to manage that certain residential

property commonly known as 6429 Azurelyn Avenue, Las Vegas, NV 89122, more particularly described as Clark County Asessor's Parcel No. 161-27-514-005 (the "Property").

3. Golden River Investments, LLC is a Nevada limited liability company doing business as Golden River Realty.

4. RESPONDENT is a manager of Golden River Investment, LLC.

5. RESPONDENT signed the Property Management Agreement on behalf of Golden River Realty.

6. The Property Management Agreement was for an initial term of two years and automatically renewed for the same term provided that neither party gave 30 days' written notice of its intent not to renew.

7. On July 21, 2011 Golden River Realty, through RESPONDENT and on behalf of Landlord, entered into a Residential Lease Agreement ("Lease") with Danish London ("Tenant").

8. The Lease did not contain a lease term or a lease expiration date, and therefore no duration.

9. The Lease required Tenant to pay a security deposit in the amount of $1,130 dollars, a $75 dollar key deposit, and $300 dollar cleaning deposit ("Deposited Funds").

10. Tenant leased the Property from July of 2011 through February of 2018, at which time the Tenant was evicted from the Property.

11. RESPONDENT did not collect the Deposited Funds from Tenant as required under the Lease.

12. RESPONDENT permitted Tenant to pay a total deposit of $311 dollars while Tenant occupied the Property for over a six-year period.

13. On March 22, 2018 Landlord filed a complaint with the Division alleging that RESPONDENT permitted Tenant to live in the Property for approximately six years with paying a total deposit of only $311 dollars.

14. Landlord alleged that as a result, when the Tenant was evicted from the property in February of 2018, Landlord had to come out of pocket for repairs in the amount of $8,991.15 because RESPONDENT had failed to collect an adequate security deposit during Tenant's occupancy of the Property for over a six-year period.

15. On March 23, 2018, the Division properly notified RESPONDENT that the Division had opened an investigation regarding RESPONDENT's management of the Property.

16. In Response to the Division's investigation, RESPONDENT claimed that Landlord agreed to let Tenant make payments on the security deposit required under the Lease and that Landlord was aware of the amount of the security deposit Tenant paid because it was reflected on the Owner Statements sent to Landlord.

17. RESPONDENT failed to produce any signed agreement with Landlord or any amendment to the Lease permitting the Tenant to pay the Deposited Funds in installments.

VIOLATIONS

RESPONDENT has committed the following violations of law:

18. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) for not collecting the Deposited Funds as set forth in the Lease.

19. RESPONDENT violated NRS 645.633(1)(h) pursuant to NRS 118A.200 by failing to include a lease term in the Lease, and as such, the Lease fails to specify its duration.

DISCIPLINE AUTHORIZED

20. 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.

21. 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.

22. 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 November 5, 2019, 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 November 7, 2019, or earlier if the business of the Commission is concluded. The Commission meeting will be held on November 5, 2019, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Tahoe Room, Las Vegas, Nevada 89102. The meeting will continue on November 6, 2019 at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102, commencing at 9:00 a.m., and on November 7, 2019, should business not be concluded, starting at 9:00 a.m. at Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Tahoe Room, Las Vegas, Nevada 89102.

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 November 5, 2019 through November 7, 2019, 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 (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 2nd day of October, 2019.

State of Nevada
Department of Business and Industry
Real Estate Division

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