BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. THELMA FRANCO-YOUNG, Respondent.	**Case No. 2018-377** FILED MAY 08 2023 REAL ESTATE COMMISSION BY Kelley Valadez

ORDER ON RESPONDENT THELMA FRANCO-YOUNG'S PETITION FOR REHEARING IN DISCIPLINARY MATTER

This matter came on for hearing before the Real Estate Commission, Department of Business and Industry, State of Nevada (the "Commission"), during a regular agenda set for a three-day stack commencing on May 2, 2023 (the "Hearing"). RESPONDENT Thelma Franco-Young ("RESPONDENT") appeared at the Hearing. Louis V. Csoka, Esq., Senior Deputy Attorney General with the Nevada Attorney General's Office, appeared on behalf of the Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"). After argument on RESPONDENT THELMA FRANCO-YOUNG'S PETITION FOR REHEARING IN DISCIPLINARY MATTER (the "Petition") and for good cause appearing, the Commission now enters its Order for RESPONDENT as follows:

JURISDICTION

RESPONDENT, at all relevant times mentioned in this Complaint, held herself out and acted as a person licensed as a Broker-Salesperson under license number B.0029095.LLC, and is therefore subject to the jurisdiction of the Division and the Commission, and the provisions of NRS chapter 645 and NAC chapter 645.

PROCEDURAL HISTORY

1. On January 13, 2023, the Division served its Notice of Complaint and Obligation to Respond on RESPONDENT, at RESPONDENT's address on file with the Division. Notwithstanding

such notice, RESPONDENT failed to respond.

2. On February 17, 2023, the Division served its Notice of Default on RESPONDENT, at RESPONDENT's address on file with the Division. Notwithstanding such notice, RESPONDENT again failed to respond. RESPONDENT also failed to appear at the associated Hearing.

3. Given RESPONDENT's failure to respond to the Division's Complaint or to appear at the associated hearing in February 2023, the Division requested that the Commission enter a finding of default against RESPONDENT in accordance with NAC 645.810(13).

4. On February 22, 2023, finding proper service of the Complaint and proper service of the associated Notices on RESPONDENT, the Commission entered a finding of default against RESPONDENT (with the formal Order as to the same filed on March 13, 2023).

5. Under such default judgment before the Commission, RESPONDENT was required to pay certain fines and fees.

6. Contemporaneously, RESPONDENT's licenses and certificates with the Division were revoked.

7. On April 6, 2023, RESPONDENT filed her instant Petition.

8. As RESPONDENT explained at the Hearing of the Petition, RESPONDENT was hospitalized during the time that the Commission met in February 2023.

CONCLUSIONS OF LAW

1. It is a firmly established policy that controversies preferably be resolved on their merits whenever possible. *See Hotel Last Frontier v. Frontier Prop.*, 79 Nev. 150, 380 P.2d 293 (1963). The requirements to vacate entry of default judgments are that (1) the default must have been the result of mistake, inadvertence, surprise, or excusable neglect (NRCP 60(b)), and the defaulted party must additionally timely tender a meritorious defense. *See Hotel Last Frontier, supra; see also, Ute, Inc. v. Apfel*, 90 Nev. 25, 518 P.2d 156 (1974).

2. Given that RESPONDENT was hospitalized, the Commission finds excusable neglect for RESPONDENT's failure to appear at her initial Hearing.

3. Accordingly, the Commission will vacate its prior default judgment.

ORDER

1. RESPONDENT's Petition is granted.

2. The Commission's default judgment against RESPONDENT is vacated.

3. The Commission will hear the Division's disciplinary matter against RESPONDENT, during a regular agenda set for a three-day stack commencing on August 22, 2023.

4. As stipulated by RESPONDENT at the Hearing, RESPONDENT's licenses shall remain revoked for the pendency of the resolution of the instant disciplinary matter.[1]

5. The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this document.

6. This Order shall become effective on the 8th day of May 2023.

DATED this 8th day of May, 2023.

REAL ESTATE COMMISSION
STATE OF NEVADA

By: David Tanner
Vice President, Nevada Real Estate Commission

Submitted by:

AARON D. FORD
Attorney General

By: /s/ Louis V. Csoka

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[1] Other than "excusable neglect" as to her initial non-appearance before the Commission, to date, Respondent did not present any meritorious defense to the substance of the allegations which are very serious. Accordingly, the Commission has accepted RESPONDENT's stipulations that, until the pendency of the instant disciplinary matter, RESPONDENT's licenses with the Division shall remain inactive.