BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. KEA RANA, Respondent.	**Case No. 2021-264** FILED AUG 18 2022 REAL ESTATE COMMISSION BY

COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") hereby notifies KEA RANA ("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

1. At all relevant times, RESPONDENT was licensed by the Division as a broker (B.0049123.CORP) and held a property management permit (PM.0163622.BKR) issued by the Division 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

2. At all relevant times, RESPONDENT was licensed by the Division as a broker (B.0049123.CORP) and held a property manager permit (PM.0163622.BKR) from the Division, both of which are in "active" status. **Exhibit C**, Bates NRED 0006-0007.

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3. At all times relevant, the RESPONDENT provided property management services through her company, Vegas Real Estate and Management, located at 10161 Park Run Drive, Suite 150, Las Vegas, Nevada 89145 ("VREM.") **Exhibit H**, Bates NRED 0175-0184.

4. On or around March 17, 2021, one of RESPONDENT's former tenants and complainant Michael McGrath ("Mr. McGrath or Complainant") filed a complaint with the Division stating that that RESPONDENT was the rental agent for 9650 Bandera Creek Avenue in Las Vegas, Nevada 89148 (the "Bandera Creek property.") **Exhibit D**, Bates NRED 0009-0010; NRED 0175-0184.

5. RESPONDENT was the property manager for the Bandera Creek property from April 15, 2015 to April 30, 2018. **Exhibit H**, Bates NRED 0175-0184, **Exhibit J**, Bates NRED 0211-0212.

6. On or about April 30, 2018, the RESPONDENT ceased managing the Bandera Creek property and transferred the security deposit to the new property management company Black & Cherry Real Estate Group ("BCREG.") **Exhibit D,** Bates NRED 0009-0010; **Exhibit H**, Bates NRED 0200, **Exhibit J**, Bates NRED 0211-0212.

7. Mr. McGrath was a tenant at the Bandera Creek property from April 25, 2018, to April 27, 2020. **Exhibit H**, Bates NRED 0175-0184, **Exhibit D**, Bates NRED 0009-0010.

8. During his tenancy, Mr. McGrath set up an automatic rental payment in the amount of $1,245.00 per month to be deposited to KC Rana Vegas Real Estate and Management's Wells Fargo Bank account no. 3393932953. **Exhibit F**, Bates NRED 0019-0166; **Exhibit E**, Bates NRED 0012-0016.

9. Mr. McGrath made these automatic payments from April 17, 2018 to April 27, 2020 after the management of the Bandera Creek property was transferred from the RESPONDENT to BCREG. **Exhibit F**, Bates NRED 0019-0166; **Exhibit E**, Bates NRED 0012-0016.

10. Upon the transfer of management, Mr. McGrath set up an automatic rental payment with BCREG. **Exhibit D**, Bates NRED 0009-0010.

11. Upon transfer of the management, the RESPONDENT did not notify Mr. McGrath that she was continuing to receive automatic rental payments for the Bandera Creek property, even though she was no longer managing the property. **Exhibit D**, Bates NRED 0009-0010, **Exhibit J**, Bates NRED 0211-0212.

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12. In October of 2021, Mr. McGrath moved out of the Bandera Creek property and that was the first time he learned that the RESPONDENT kept receiving his automatic rental payments in the amount of $1,245.00, even though she was no longer the manager for the property. **Exhibit D**, Bates NRED 0009-0010.

13. After the termination of the management of the Bandera Creek property, the RESPONDENT received automatic rental payments from Mr. McGrath from April 17, 2018 to April 27, 2020 for a total amount of $27,390.00. **Exhibit D**, Bates NRED 0009-0010, **Exhibit E**, Bates NRED 0012-0016, **Exhibit J**, Bates NRED 0211-0212, **Exhibit G**, Bates NRED 0168-0170.

14. On or about March 31, 2021, the Division properly notified RESPONDENT that it was opening an investigation against her based on the complaint received, requested a response, and requested the following documents:

a. Copies of the trust account reconciliation accounts from April 2018 through current; and
b. Copies of the trust account monthly bank statements from April 2018 through current. ("Requested Documents"). Correspondence from the Division to the Respondent, dated March 31, 2021, attached as **Exhibit B**, Bates NRED 0004.

15. The Division gave until April 14, 2021, for the RESPONDENT to produce the Requested Documents. **Exhibit B**, Bates NRED 0004.

16. RESPONDENT failed to produce the Requested Documents.

17. On or about August 30, 2021, the RESPONDENT requested an extension until September 13, 2021 to respond to the allegations. **Exhibit K**, Bates NRED 0214.

18. The Division gave the RESPONDENT until September 7, 2021 to respond to the allegations and to provide the Requested Documents. **Exhibit K**, Bates NRED 0214.

19. On or about September 3, 2021, the RESPONDENT submitted an affidavit to the Division in response to the allegations ("the affidavit".) **Exhibit J**, Bates NRED 0211-0212.

20. The affidavit was not notarized. **Exhibit J**, Bates NRED 0211-0212.

21. In the affidavit, the RESPONDENT admitted that she was the property manager for the Bandera Creek property from April 20, 2015 to April 30, 2018. **Exhibit J**, Bates NRED 0211-0212.

22. RESPONDENT claimed that she was not aware she was receiving these automatic payments from Mr. McGrath. **Exhibit J**, Bates NRED 0211-0212.

23. RESPONDENT admitted that she applied these payments to a "different account" because the rent account for the Bandera Creek property no longer existed in her accounting system. **Exhibit J**, Bates NRED 0211-0212.

24. In addition, the RESPONDENT admitted that she also used these monies to pay vendors and her management fees. **Exhibit J**, Bates NRED 0211-0212.

25. RESPONDENT claimed she "mistakenly believed" that the left over from Mr. McGrath's rental payment somehow belonged to her, even though she admitted that she was not managing the Bandera Creek property from April 17, 2018 to April 27, 2020. **Exhibit J**, Bates NRED 0211-0212.

26. At all times relevant herein, RESPONDENT did not perform proper reconciliation of her trust account and admitted that since Mr. McGrath's complaint, she had purchased property management software and had hired an accountant. **Exhibit J**, Bates NRED 0211-0212, **Exhibit L**, Bates NRED 0216-0934.

27. She admitted that she continued to receive rental payments from Mr. McGrath after the management of the Bandera Creek property transferred from VREM to BCREG in April 30, 2018. **Exhibit J**, Bates NRED 0211-0212, **Exhibit G**, Bates NRED 0168-0170, NRED 0202-0205.

28. In or around May of 2020, Mr. McGrath notified the RESPONDENT of overpayment for the rent in the amount of $27,390.00. **Exhibit J**, Bates NRED 0211-0212.

29. The RESPONDENT agreed to re-pay Mr. McGrath in installments as she did not have the monies to pay him in full. **Exhibit D**, Bates NRED 0009-0010, **Exhibit G**, Bates NRED 0168-0170; NRED 0202-0203, NRED 0204-0205, **Exhibit J**, Bates NRED 0211-0212.

30. On or about May 28, 2020, the RESPONDENT made the first payment of $5,000.00 to Mr. McGrath. **Exhibit G**, Bates NRED 0168-0170, NRED 0202-0205, **Exhibit D**, Bates NRED 0009-0010.

31. On or about June 3, 2020, the RESPONDENT made the second payment of $5,000.00. **Exhibit G**, Bates NRED 0168-0170; NRED 0202-0203, NRED 0204-0205, **Exhibit D**, Bates NRED 0009-0010.

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32. On or about June 16, 2020, the RESPONDENT made the third payment of $5,000.00. **Exhibit G**, Bates NRED 0168-0170; NRED 0202-0203, NRED 0204-0205, **Exhibit D**, Bates NRED 0009-0010.

33. After not receiving another payment for nine (9) months, Mr. McGrath reached out to the RESPONDENT on numerous occasions to ask her about the repayment of the rest of the monies in the amount of $12,390.00. **Exhibit D**, Bates NRED 0009-0010.

34. The RESPONDENT ignored Mr. McGrath and instead claimed that due to COVID-19 she forgot about the payment arrangement and owing $12,390.00 to Mr. McGrath. **Exhibit J**, Bates NRED 0211-0212.

35. After Mr. McGrath filed the complaint with the Division, on or about September 3, 2021, the RESPONDENT made the final payment of $12,390.00 to Mr. McGrath. **Exhibit G**, Bates NRED 0168-0170; NRED 0202-0203, NRED 0204-0205.

36. On or around June 13, 2022, RESPONDENT was properly notified by the Division that it was bringing a complaint for disciplinary action before the Commission. **Exhibit A**, Bates NRED 0002.

VIOLATIONS OF LAW

RESPONDENT committed the following violations of law:

1. RESPONDENT violated NAC 645.655 (8) when she failed to sufficiently maintain separate ledger accounts for all properties, she managed including the Bandera Creek property.

2. RESPONDENT violated NRS 645.630(1)(g)(1) by failing, to balance her trust accounts on monthly basis, and by failing to discover that she was receiving overpayments on the Bandera Creek property, even though she was no longer managing the property.

3. RESPONDENT violated NRS 645.630(1)(h) by commingling the overpayments she received from Mr. McGrath for her personal use and by improperly using the overpayments to pay operating expenses, pay vendors, management fees and to keep the "left over as her payment."

4. RESPONDENT violated NRS 645.630(1)(f) by failing within a reasonable time, to account for or to remit any money which comes into her possession, and which belongs to others, by failing to repay within a reasonable time the overpayments made by Mr. McGrath in the amount of

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$27,390.00 on a property she no longer managed, despite having entered a payment arrangement with Mr. McGrath.

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 September 27, 2022, 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 September 29, 2022, or earlier if the business of the Commission is concluded. The Commission meeting will be held on September 27, 2022, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue on September 28, 2022, 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 September 29, 2022, should business not be concluded, starting at 9:00 a.m. at the 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 September 27, 2022 through September 29, 2022, 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 645.920.

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

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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 17 day of August, 2022.

State of Nevada
Department of Business and Industry
Real Estate Division

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