BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA, Petitioner, vs. THOMAS BUCKNER, (S.196063.LLC – INACTIVE), Respondent.	Case No. 2023-1078 FILED AUG 2 1 2024 REAL ESTATE COMMISSION BY Kelley Valadez

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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 August 13, 2024 (the "Hearing"). RESPONDENT Thomas Buckner ("RESPONDENT") did not appear in person, through counsel, or otherwise. RESPONDENT'S former brokers, Kirby James Scofield (BS.1001112.LLC) and Jenia Noelle McDonald (B.0003279.LLC) were present. PETITIONER'S counsel, Christal Park Keegan, Esq., 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").

The Division's counsel advised the Commission that RESPONDENT did not file an answer pursuant to NRS 645.810(13), therefore the Division filed its Notice of Default on August 8, 2024, with Exhibits A-C.

Since RESPONDENT failed to appear at the hearing, the Division accordingly proceeded with a default pursuant to NAC 645.860. The Division's Commission Coordinator testified regarding proper notice to the RESPONDENT. The Commission found proof of service of the Complaint and Notice of Hearing, Notice of Complaint and Obligation to Respond, and Notice of Documents with documents numbered NRED 000001 – 000110 was made.

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After hearing testimony presented in this matter and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law and Order against RESPONDENT as follows:

JURISDICTION

RESPONDENT, at all relevant times mentioned in this Complaint, was actively licensed as a salesperson under license number S.196063.LLC. RESPONDENT is, therefore, subject to the jurisdiction of the Division and the Commission, and the provisions of NRS Chapter 645 and NAC Chapter 645.

FINDINGS OF FACT

At all times relevant to the Complaint, RESPONDENT was the real estate agent on both sides of the transaction for the property located at 3737 Westeros Landing Ave., Las Vegas, NV 89141 (the "Property"). *NRED 000092 – NRED 000093.*

On or about July 27, 2023, the RESPONDENT and Complainant Seller entered into an exclusive listing agreement for the Property with a listing price of $479,800. *NRED 000072 – NRED 000081.*

The Property was allegedly appraised for $458,000. *NRED 000043.*

On or about October 14, 2023, RESPONDENT presented an all-cash offer for $450,000 on behalf of buyers, Randolph and Cynthia Buckner Trust, with a six (6) day closing. *NRED 000083 – NRED 000093.*

The Complainant Seller relied on representations from the RESPONDENT that the low offer was firm, but that the RESPONDENT would cover the difference to the Seller with his commissions. *NRED 000043.*

The Complainant Seller accepted the offer that same day. *NRED 000093.*

The RESPONDENT Thomas Buckner indicated he "DOES NOT" have an interest in the Buyers Randolph and Cynthia Buckner Trust or a family or firm relationship with the Buyers in the Residential Purchase Agreement. *NRED 000092.*

The RESPONDENT indicated he "DOES NOT" have an interest to, or firm relationship with, his close friend the Seller. *NRED 000093.*

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On or about October 17, 2023, Complainant Seller confirmed RESPONDENT would pay Complainant the negotiated commissions amount of $6,500 outside of escrow. *NRED 000046.*

At all times relevant, RESPONDENT'S Brokerage did not condone the practice of exchanging funds outside of escrow. *NRED 000059 – NRED 000060.*

On or about October 17, 2023, the Commission Instructions identified RESPONDENT as the agent and indicated a total of $22,500 commissions to be paid ($11,250 at 2.5% for Seller's and Buyers' Agent's Commission). *NRED 000106.*

On or about October 18, 2023, in Addendum No. 1 presented by the RESPONDENT, parties signed the prepared amendment language to the Purchase Agreement waiving the HOA Resale Package. *NRED 000105.*

Sometime between October 20, 2023, to October 24, 2023, RESPONDENT'S Broker "Paid [his] agent after paying his commission advance to eCommission." *NRED 000059.*

Yet, on or about October 26, 2023, RESPONDENT represented to his client, Complainant Seller, that he had "[n]ot yet" been paid: "I've gotten $5k from it caise [sic] I bitched so I can send you some of that...I don't want anything to show up in records that he could use to try and prove anything ya know." *NRED 000047.*

On or about January 3, 2024, the Division informed the RESPONDENT it received a complaint against him and requested a written response by January 17, 2024. *NRED 000007.*

On or about March 27, 2024 and April 5, 2024, the Division informed the RESPONDENT that it still had not received any documents nor the notarized affidavit from its first request, and provided an extension to April 6, 2024. *NRED 000030 – 000031, see also NRED 000016 and NRED 000013.*

Accordingly, on or about May 6, 2024, the Division notified the RESPONDENT it intended to proceed with formal disciplinary action. *NRED 000035 – NRED 000038.*

On or about April 30, 2024, the Division received confirmation of delivery of its letter to RESPONDENT'S address in Knoxville, TN, signed by a "Candy Buckner". *NRED 000034.*

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CONCLUSIONS OF LAW

Whereas the Commission found that the Division proved by a preponderance of the evidence the foregoing findings of fact, and concludes by unanimous vote that the RESPONDENT committed the following violations of law, as presented in the Complaint:

1. RESPONDENT violated NRS 645.633(1)(i) pursuant to NAC 645.605, including but not limited to subsection (1), for engaging in deceitful, fraudulent and/or dishonest acts to conceal monies outside of escrow.

2. RESPONDENT violated NRS 645.630(1)(b) for making false promises to pay his commissions to influence, persuade and/or induce his client, the Seller, to enter a real estate contract.

3. RESPONDENT violated NRS 645.635(6) for failing to provide responses and documents to the Division during its investigation.

4. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(3) for committing grossly negligent and/or incompetent acts when he engaged in the unauthorized practice of law by drafting an addendum releasing rights and responsibilities required by the laws governing resale packages.

5. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) for committing grossly negligent and/or incompetent acts when he breached his obligation of absolute fidelity to his principal's interest and/or to deal fairly with all parties to the real estate transaction by failing to disclose his firm relationships with the parties.

ORDER

The Commission, being fully apprised in the premises, and good cause appearing to the Commission, by unanimous vote, ORDERS as follows:

1. RESPONDENT shall pay an administrative fine to the Division in the total amount of $55,070.66 ("Amount Due"), which includes an administrative fine of $50,000 for the five (5) violations of law ($10,000 per violation), and $5,070.66 for the Division's costs and attorney's fees, within thirty (30) days from the effective date of this Order.

2. All RESPONDENT'S licenses, permits and certificates shall be revoked on the effective date of this Order.

3. If payment is not actually received by the Division on or before its due date, it shall be a default by RESPONDENT. In the event of default, the unpaid balance of the administrative fine and costs, together with any attorney's fees and costs that may have been assessed, shall be due in full to the Division within ten (10) calendar days of the date of default, and the Division may obtain a judgment for the amount owed, including collection fees and costs.

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

5. This Order shall become effective thirty (30) days after the date of this Order.

DATED this 21 day of August, 2024 NEVADA REAL ESTATE COMMISSION

By: _____
President, Nevada Real Estate Commission

DATED this 16th day of August, 2024

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