BEFORE THE REAL ESTATE COMMISSION

STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY, STATE OF NEVADA, Petitioner, vs. MARINE THUET, S.0178492.LLC; PM.0166655 Respondent.	**Case No. 2023-81** FILED FEB 29 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 DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division") on Wednesday, February 21, 2024 (the "Hearing"). RESPONDENT MARINE THUET (hereinafter, "RESPONDENT") appeared in-person on her own behalf. Phil W. Su, 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"). The Hearing was originally scheduled for November 7-9, 2023, but was continued upon RESPONDENT's request.

NRED Investigator Rebecca Bruce testified regarding the investigation undertaken by former NRED Investigator Maria Martin, including Investigator Bruce's review of Investigator Martin's investigative file. Upon motion, the Commission admitted the Division's documents, including the investigative file, into evidence. RESPONDENT testified upon her own behalf, and, upon motion, the Commission admitted the RESPONDENT's proffered documents into evidence. After hearing testimony and reviewing the documents presented in this matter and for good cause appearing, the Commission now enters its Findings of Fact, Conclusions of Law, and Order as follows:

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JURISDICTION

RESPONDENT has been licensed as a Nevada real estate salesperson under license number S.0178492.LLC and has held a property management permit PM.0166655 at all relevant times mentioned in this Complaint, and 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

The matter having been submitted for decision based upon the allegations of the Complaint, the Commission now, based upon evidence presented during the Hearing, finds that there is substantial evidence in the record to establish each of the following:

1. At all relevant times mentioned in this Complaint RESPONDENT MARINE THUET ("RESPONDENT") was licensed as a Nevada real estate salesperson under license number S.0178492.LLC and has held a property management permit PM.0166655.

2. At all times relevant, RESPONDENT worked as an agent and property manager for Las Vegas Invest Real Estate LLC, under the supervision of broker Vincent Sinard.

3. On or about April 1, 2019, RESPONDENT served as property manager for the condominium unit located at 7131 S Durango #107, Las Vegas, NV 89113, (the "Property").

4. RESPONDENT represented both the Property owner and the tenant, COMPLAINANT Nicole Fontenette ("COMPLAINANT" and/or "Tenant"), in entering into the lease agreement, and provided a Duties Owed Form and Consent to Act form to both parties.

5. The Property is a unit located within the Vistana Condominium Owners Association, which is serviced by First Service Residential and community manager Teresa Hilton ("Hilton") (collectively, "Vistana").

6. On May 6, 2019, the owner of the Property informed Vistana that the billing address for the Property would thereafter be RESPONDENT's business address, 2654 W. Horizon Ridge, Ste B5-117, Henderson NV 89052.

7. On February 7, 2023, COMPLAINANT provided the Division with a complaint/statement of fact and supporting documents alleging that RESPONDENT repeatedly failed to timely inform COMPLAINANT regarding an HOA violation for broken/unsightly window blinds, which resulted in the imposition of HOA fines from the unanswered violation.

8. On February 8, 2023, the Division informed RESPONDENT that it was opening an investigation against her based upon the complaint/statement of facts and requested her response in the form of a sworn affidavit by February 23, 2023.

9. On February 21, 2023, RESPONDENT provided a sworn affidavit in response to the COMPLAINANT'S allegations.

10. On February 8, 2023, the Division also informed RESPONDENT'S broker, Vincent Sinard, of its investigation against RESPONDENT and requested that he provide his knowledge of the facts concerning the allegations via sworn affidavit and production of the complete broker file for the Property by February 23, 2023.

11. On March 7, 2023, the Division sent Broker Sinard a follow-up request for sworn affidavit and broker file within ten (10) days of the letter.

12. On March 15, 2023, Broker Sinard provided, via email, his sworn affidavit, dated March 10, 2023, setting forth his knowledge of the matter.

13. Broker Sinard also provided a sworn declaration regarding the broker file for the Property.

14. Broker Sinard also provided a set of documents labeled "All Documents on File," comprising of paper file documents.

15. Broker Sinard also provided a set of documents labeled "All Email Communications" regarding the Property.

16. On February 13, 2023, Vistana community association manager Teresa Hilton informed the Division investigator that COMPLAINANT had reached out to her to address the fine, but was told that this was an issue that COMPLAINANT would have to address

with RESPONDENT, as property manager, and that Vistana would not communicate with a tenant.

17. On March 20, 2023, Vistana CAM Teresa Hilton submitted a sworn affidavit regarding the violation, and attached 24 pages of supporting documents outlining the communications mailed regarding the violation for broken blinds.

18. On December 7, 2022, RESPONDENT sent a letter to Vistana to inquire about a recurring fine, claiming she never received a violation letter.

19. On December 9, 2022, RESPONDENT sent an email to COMPLAINANT notifying her of the violation and the need to replace the damaged blinds ASAP to close the violation.

20. On December 14, 2022, Vistana confirmed the violation was remedied and closed.

21. On June 14, 2023, the Division completed its investigation and issued a Notice of Violation with Imposition of Administrative Fine in the amount of $1,500.00.

22. RESPONDENT timely appealed the fine.

23. On June 20, 2023, the Division issued an NRS 233B letter to RESPONDENT, wherein it determined that it obtained sufficient evidence to commence disciplinary charges against her and to seek a formal hearing before the Real Estate Commission.

CONCLUSIONS OF LAW

The Commission, based upon the preponderance of the evidence, makes the following legal conclusions:

24. By unanimous vote, that Violation #1, asserting that RESPONDENT violated NRS 645.633(1)(h) pursuant to NRS 645.252(2) by failing to exercise reasonable skill and care in the management of the Property, in that RESPONDENT did not monitor Las Vegas Invest Real Estate LLC's incoming mail to ensure that the violation, hearing notice, and hearing decision mailings were addressed in a timely manner, was **NOT PROVEN**.

25. By a vote of 3-2, that Violation #2, asserting that RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) and breached her obligation of absolute

fidelity to both the Property owner and COMPLAINANT'S interests, by failing to take affirmative steps to appeal or address the fines incurred once the unaddressed violation was discovered, was **NOT PROVEN**.

ORDER

Based on the foregoing findings of facts and conclusions of law, the Commission hereby orders this matter dismissed in its entirety.

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

DATED this 29 day of February 2024.

REAL ESTATE COMMISSION
STATE OF NEVADA

By: _____
President
Nevada Real Estate Commission

Submitted by:
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