

BEFORE THE STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
MANUFACTURED HOUSING DIVISION

IN THE MATTER OF MEL COLADONATO
AND STEPHANIE COLADONATO AND
AFFORDABLE NEVADA HOMES NOTICE
OF VIOLATION AND ORDER TO PAY
FINE

AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing in the above-captioned matter was held on July 27, 2015, before Andrew MacKay serving in his capacity as Hearing Officer as appointed, pursuant to Nevada Revised Statutes (NRS) 489.231 and NRS 489.233(3) by Administrator Jim deProse of the State of Nevada, Department of Business and Industry, Manufactured Housing Division (Division). Mel Coladonato, Stephanie Coladonato, and Affordable Nevada Homes (Affordable Homes) were present with legal counsel, Patrick King, Esq.; Deputy Attorney General Colleen Platt was present on behalf of the Division.

Affordable Homes appealed the Division's Notice of Violation and Order to Pay Fine (Notice) which concluded that Affordable Homes had violated:

1. NRS 489.7152 for failing to use the prescribed form for the contract for the listing of a used manufactured home for sale;
2. NRS 489.7152 for failing to use the prescribed form for the contract for the sale of a used manufactured home for sale;
3. NRS 489.421(3) for failing to submit a required response to the Division in the time required;
4. NRS 489.7158(2) for entering into a listing agreement without being able to

deliver good title;

5. NRS 489.401(9) for failing to obtain written acknowledgement from a lienholder of Notification of Sale;
6. NRS 489.401(3) for failing to remove a false statement and misrepresentation in a sales brochure; and
7. NRS 489.423(1) for failing to exercise reasonable care in managing employees.

The Notice ordered Affordable Homes to pay a fine in the amount of \$5,000 within 15 days of the receipt of the notice.

After hearing the allegations, the respective arguments, and having considered the evidence introduced by both parties and being fully advised, the Hearing Officer, pursuant to NRS 489.411, makes the following Findings of Fact and Conclusions of Law. Any Finding of Fact that would be better deemed a Conclusion of Law or vice versa shall so be construed.

FINDINGS OF FACT

There is a preponderance of evidence in the record delivered by the Hearing Officer, which contains the legal evidence presented at the hearing, to establish each of the facts hereinafter set forth in these Findings of Facts.

1. That Affordable Homes altered the form contract prescribed by the Administrator of the Division for the listing of a manufactured home for sale, commonly known as the Listing Agreement.
2. That Affordable Homes altered the form contract prescribed by the Administrator of the Division for the sale of a Used Manufactured Home, commonly known as the Used Home Purchase Contract.
3. As a result of violating NRS 489.7152, Affordable Homes failed to exercise reasonable care in managing its employees.
4. That Affordable Homes entered into a listing agreement before it could

determine that its client would be able to deliver good title on or before the execution of the sale of a manufactured home located at 2 Muscat Court, Reno, Nevada 89512.

5. That Affordable Homes failed to obtain written acknowledgement of the sale of a manufactured home from Johnny L. Pastrano, the lienholder of a manufactured home located at 2 Muscat Court, Reno, Nevada 89512.
6. That Affordable Homes responded to the Division's notice, "Findings and Order" dated February 24, 2015, within the time period prescribed in the notice.
7. That Affordable Homes' advertisements are exceedingly close to a violation of law.

CONCLUSIONS OF LAW

There is a preponderance of evidence in the record delivered by the Hearing Officer, which contains the legal evidence presented at the hearing, to establish each of the above Findings of Facts which support the following Conclusions of Law.

1. That Affordable Homes violated NRS 489.7152 when it altered the Listing Agreement prescribed by the Administrator.
2. That Affordable Homes violated NRS 489.7152 when it altered the Used Home Purchase Contract prescribed by the Administrator.
3. That Affordable Homes violated NRS 489.423(1) by allowing Mel and Stephanie Coladonato to alter the Listing Agreement and the Used Home Purchase Contract prescribed by the Administrator.
4. That Affordable Homes violated NRS 489.7158(2) when it failed to determine, before it entered into a brokerage agreement, a client for the sale of a manufactured home located at 2 Muscat Court, Reno, Nevada 89512, and that the client would be able to deliver good title upon the execution of the

sale of the manufactured home.

5. That Affordable Homes violated NRS 489.401(9) when it failed to obtain written acknowledgement of the sale of a manufactured home from Johnny L. Pastrano, the lienholder of a manufactured home located at 2 Muscat Court, Reno, Nevada 89512.
6. That Affordable Homes did respond to the Division's February 24, 2015, letter in the appropriate time and did not violate NRS 489.421(3).
7. That Affordable Homes did not violate NRS 489.401(3), and recommends that Affordable Homes works with the Division to insure that the Affordable Homes' advertisements do not mislead the public.

ORDER

IT IS THEREFORE ORDERED, based on the foregoing Findings of Fact and Conclusions of Law, that:

1. For the NRS 489.7152 violation, a fine in the amount of \$1,000, with \$250 suspended for one year pending no further violations of NRS 489.7152, is imposed;
2. For the NRS 489.423(1) violation, a fine in the amount of \$1,000, with \$750 suspended for one year pending no further violations of NRS 489.423(1), is imposed;
3. For the NRS 489.7158(2) violation, a fine in the amount of \$1,000, with \$500 suspended for one year pending no further violations of NRS 489.7158(2), is imposed;
4. For the NRS 489.401(9) violation, a fine in the amount of \$1,000, with \$1,000 suspended for one year pending no further violations of NRS 489.401(9), is imposed;

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5. Attorney's Fees in the amount of \$1,740 is awarded to the Division.
6. That the fines in the amount of \$1,500 and the attorney's fees in the amount of \$1,740 are due within 90 days of the receipt of this Order. Remaining fine amounts will become immediately due in the event there are further violations. The Division may institute debt collection proceedings if the Respondent's costs are not paid within the time provided.

Dated this 20th day of August, 2015.

Manufactured Housing Division

By: 
Andrew MacKay, Hearing Officer
Appointee of Jim deProsse, Administrator