

SHARATH CHANDRA,
ADMINISTRATOR, NEVADA REAL
ESTATE DIVISION,

Appellant

Vs.

MELANI SCHULTE; AND WILLIAM R.
SCHULTE

Respondent

APPEALS CASE NO: 75477

Lower Ct. Case No. ~~MA1274281909~~
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APPEAL

From the Eighth Judicial District Court, Clark County
The HONORABLE CHERYL, B. MOSS, District Court Judge
District Court Case No., D-12-458809-D

RESPONDENT MELANI SCHULTE'S ANSWERING BRIEF

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ISSUES PRESENTED

Appellant SHARATH CHANDRA, ADMINISTRATOR, NEVADA REAL ESTATE DIVISION , CHANDRA, has exceeded the scope of this appeal with several of the issues. This Court, in its ruling on November 30, 2018, dismissed the portion of the appeal that dealt with the validity of the May 18, 2017 order and the judgments against William Schulte. In flagrant violation of this ruling, CHANDRA's pursues two issues barred by the dismissal, specifically, #2 and #3.

- “Are the judgments with reference to any transaction for which a license is required pursuant to NRS Chapter 645”; and
- “Did the District Court lack jurisdiction to enter the Amended Decree of Divorce rendering the judgments related thereto void”

This Court concluded that the Appellant lacked standing and therefore “we dismiss this appeal from the May 18, 2017 order and the judgments against William Schulte.” See Order dismissing Appeal, page 2. The remaining issues, #1, #4 and #5 are within the remaining scope of this appeal.

The Respondent is not only Melani Schulte (“Melani”), but also the individual LLC's

- Cherish LLC
- 1701 Empire Mine LLC
- 2861 Marathon LLC
- 1341 Minuet LLC
- 8216 Peaceful Canyon LLC
- 5524 Rock Creek LLC
- 5609 San Ardo LLC
- 9521 Sierra Summit LLC

(collectively, “LLC’s”). The District Court issued 9 Orders Directing Payment Out of the Education Research and Recovery Fund (“ERRF”), one for each of the above LLCs and a payment directly to Melani Schulte which has already been paid. (collectively “Orders”) The Orders were not identical as the properties were each owned by a different LLC, and the contracts, agreements and leases were with the individual LLCs and not Melani Schulte. As another clarification to Appellant’s contentions, the LLCs are not part of the entity, Schulte Properties LLC.

STATEMENT OF THE CASE

In May of 2017, the District Court granted 22 final judgments against William Schulte (“William”) for his wrong doings (“Judgments”). The 22 Judgments were granted to 21 different LLCs which at the time of the entry of the order Melani was, the successor-in-interest, and 1 order to Melani. [Only the 9 Judgments that are part of the Orders are included in the joint appendix.] JA 55-81. Over the next few months, Melani attempted to collect on the judgments and when

William did not pay, Melani filed only 9 Verified Petitions (“Petitions”) out of 21 she could have filed, for Orders Directing Payment Out of the Education Research and Recovery Fund (“ERRF”). JA 082-126.

After a hearing at which the Nevada Attorney General (“AG”) appeared, the District court granted all 9 of the Petitions, 8 to the LLCs and 1 to Melani. (Collectively the “Orders”) JA 219-272. Chandra, as the administrator of ERRF appealed. JA 273-276.

STATEMENT OF THE FACTS

Many of the facts are undisputed. William Schulte was a licensed broker and permitted property manager for Sabreco Inc. (“Sabreco”). Melani was not involved in Sabreco at the time of the wrongdoing and was estranged from William during the period in which the wrongful acts were alleged. Melani’s divorce from William was entered on July 8, 2013, several years before the judgments for fraud against William were entered in May 2017. The Petitions for payment from ERRF were filed on October 25, 2017 and the matter heard on November 30, 2017.

However, several of the facts alleged by Appellant in its statement of facts are incorrect and misleading. Appellant states:

On June 11, 2013, the Division filed an administrative complaint against Mr. Schulte with the Nevada Real Estate Commission (“Commission”). JA, at 0006-0013. The Complaint alleged Mr. Schulte committed violations of NRS 645 by, among

other conduct, (1) failing to remit money to several individuals (none of whom were Ms. Schulte),...

In actuality, MELANI SCHULTE, (hereinafter "Melani") submitted a statement to the commission which included alleged violations by William toward MELANI and the above listed properties as referenced in the complaint JA 6-13, 7;8-9. In fact, the Division, in their Complaint against William, included each property relevant hereto and listed above, attached as Exhibit 3 to the Complaint. JA 303-304.

In the section titled "Divorce proceedings" the Appellant attempts to mislead the court through false implications. On page 8, Appellant states that Melani returned to court almost four years later and that "the Division was not party to the proceedings." The Division would never be party to a divorce proceeding and none of the cited changes to the decree bound the Division to any ruling or judgment. Nor did Melani wait four years before seeking redress. The four years was spent on discovery thwarted by William and made more difficult because the DIVISION held many of the records which revealed the necessary information and would not release the information until their investigation was complete. A forensic accounting was performed and letters and lawsuits trickled in from former clients of Sabreco who were affected by William's misdeeds. In fact, the Division already paid on one application (of the 9) to reimburse Melani for payments made to a Sabreco client following a lawsuit. Melani even attempted to file small claims

judgments on behalf of the property LLC's but the small claims court declined to take jurisdiction because of the pending divorce case. JA 277-289. The District Court, after an evidentiary hearing, awarded individual judgments on the 21 properties because the properties were owned by different entities. JA 316-326, 318 ¶6.

SUMMARY OF THE ARGUMENT

Appellant's first legal theory is that Melani was the spouse of William Schulte for the purposes of NRS 645.844 and thus barred from recovery under a Statutory Spousal Exception. Appellant's reliance on the Statutory Spousal Exception is misplaced. They have not met their burden to show that the District Court Judge misapplied the law in any way. In fact, the statute specifically provides that, at the time of the hearing for recovery from the ERRF:

“the petitioner must show that: a) the petitioner is not the spouse of the debtor or the personal representative of that spouse.” NRS 645.844(4).

Appellant's argument fails for two reasons. First, the petitions were made by each individual LLC and not by Melani, with the exception of her single claim which has already been paid. Second, at the time of the petitions and the hearing, Melani was not the spouse of the debtor, as the divorce was made final on July 8, 2013, several years before the judgments were made in May 2017 and the DIVISION petitions, made on October 25, 2017. In the individual orders, the

District Court found the public policy behind the statute NRS 645.844 is to keep married couples from acting in concert to defraud the ERRF. The District Court found that Melani did not act in concert with William and that Melani was not the spouse at the time of the petitions. JA 184, 188, 192, 196, 200, 204, 208, 212, 216. Moreover, the District Court found and ordered that the 9 judgments were distinct. JA 185, 189, 193, 197, 201, 205, 209, 213, 217. Based thereon, NRS 645.844 does not bar Melani's recovery.

Appellant's second argument, that the final judgment did not comply with NRS 645.844(1), is also misplaced. Appellant argues that

“The act of collecting security deposits and rents on one's own properties is not activity for which a license is required pursuant to NRS Chapter 645.”

Appellant ignores the findings in the Order from the April 3, 2017 hearing from the district Court that specifically held:

“Sabreco collected rents and security deposits on behalf of the LLC's and deposited those funds into Sabreco trust accounts for which William Schulte had sole signatory authority. From these trust accounts, Sabreco failed to remit the monies collected for the LLC's to the LLC's. William Schulte failed to reconcile the Sabreco trust accounts and failed to file annual reports to the Nevada Real Estate Division (“NRED”) for three consecutive years 2009-2011. William Schulte acted with fraud, misrepresentation or deceit when deliberately collecting, depositing, keeping and spending the funds belonging to the LLC's and failing to disclose those wrongful acts to the LLC's and obfuscating that information by not filing mandatory reports.” JA 44-54, 45

Rather, Appellant's argument returns to the issue of the Schulte marriage and not the language of the order. Appellant ignores the mandate that the statute be liberally construed to favor recovery. Further, the properties were owned by duly formed limited liability companies, which are distinct entities from Melani. The LLC's were each distinct victims of William's fraudulent conduct and therefore should not be barred from recovery.

Appellant's third alleged ground is that the "Amended Decree of Divorce is void as the District Court lacked jurisdiction to enter the judgments, and the Petitions at issue were untimely made." Appellant's brief, page 11. This argument is made in bad faith as this Court has already dismissed the portion of the appeal which purports to attack the May 18, 2017 order or the judgments against William. See Order dismissing Appeal, page 2. Appellant has no standing to pursue an order voiding an Amended Decree of Divorce to which they are not a party. Nor was Appellant aggrieved by the Decree. Therefore, the Appellant may not now seek to void the Decree. Moreover, the Appellant fails to present any valid legal authority to support their position that the Decree was unable to be modified more than six months after the decree was entered.

Appellant's final argument is that the recovery to Melani should be limited to \$25,000 because "NRS 645.844(1) declares that no more than \$25,000 may be collected from the Fund per judgment." The cited language of the statute defeats

their own motion as it is undisputed the nine applications were based upon 9 separate judgments made by 9 distinct entities. Melani's position as the successor in interest of the entities is irrelevant as the judgments are separate and distinct. If Appellant's argument was adopted, the intent of the statute to allow recovery per judgment would be thwarted and only one recovery would be allowed by all aggrieved parties in a fraud case. Nor does the statute bar recovery by the same person for multiple judgments. NRS 645.844 provides:

“1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than \$25,000 per judgment. The liability of the Fund does not exceed \$100,000 for any person licensed pursuant to this chapter, whether the person is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.”

The statute specifically states that a person may not recover more than \$25,000 per judgment but does not preclude a person from recovering up to \$100,000 if there are several judgments.

Appellant has not met their legal burden and their appeal should be denied and Respondent awarded her legal fees for defending this meritless appeal.

LEGAL ARGUMENT

A. STANDARD OF REVIEW

Questions of statutory interpretation are reviewed de novo. *MEI-GSR Holdings, LLC v. Peppermill Casinos, Inc.*, 134 Nev. Adv. Op. 31, 416 P.3d 249, 253 (2018); *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 125 Nev. 449, 456, 215 P.3d 697, 702 (2009). When interpreting a statute, if the statutory language is “facially clear,” this court must give that language its plain meaning. *Id.*

B. NRS 645.844 DOES NOT BAR A FORMER SPOUSE’S RECOVERY.

As stated above, when interpreting a statute, the court must give the statutory language its plain meaning. Courts can determine the legislative intent for enacting a particular statute by looking at the entire act and construing the statute as a whole in light of its purpose. *White v. Warden*, 96 Nev. 634, 614 P.2d 536 (1980). Where the purpose of the legislation is expressly stated, that purpose is a factor to be considered in interpreting a given statute. *Alper v. State ex rel. Dep’t Hwys.*, 96 Nev. 925, 621 P.2d 492 (1980); *Sheriff v. Smith*, 91 Nev. 729, 542 P.2d 440 (1975). *Colello v. Administrator of Real Estate Div. of State of Nev.*, 683 P.2d 15, 100 Nev. 344 (Nev., 1984). The primary purpose of the Fund is to aid victims of real estate fraud whose judgments against real estate licensees have proven to be uncollectable. NRS 645.844. *Colello v. Administrator of Real Estate Div. of State of Nev.*, 683 P.2d 15, 100 Nev. 344 (Nev., 1984) “Statutes with a protective

purpose should be liberally construed in order to effectuate the benefits intended to be obtained." Id. at 347, 683 P.2d at 17.

Appellant argues that, because Melani was married to William at the time of the alleged wrongdoing by William, she is precluded from recovering for his fraud pursuant to NRS 645.844(4)(a) which states in relevant part:

Upon the hearing on the petition, the petitioner must show that:

(a) The petitioner is not the spouse of the debtor, or the personal representative of that spouse.

Appellant erroneously interprets NRS 645.844 to bar collection if the applicant was ever the spouse of the wrongdoer. Where a statute's language is plain and its meaning clear, the courts will apply that plain language. . *Nevada v. Secretary of State, Leven v. Frey*, 123 Nev. 399, 403, 168 P.3d 712, 715 (2007)124 Nev. 874, 881, 192 P.3d 1166, 1170–71 (2008) (“court begins its statutory analysis with the plain meaning rule”). “Where the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself.” *State, Div. of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 293–94, 995 P.2d 482, 485 (2000).

When the statute's plain meaning is clear on its face, the court need not look to other sources like legislative history or other state's interpretation of similar

statutes. See, *Western Sur. Co. v. Adco Credit Inc.*, 251 P.3d 714, 127 Nev. Adv. Op. 8 (Nev., 2011)

The statute is plain on its face. It states unequivocally, “Upon the hearing on the petition, the petitioner must show that: (a) The petitioner is not the spouse of the debtor, or the personal representative of that spouse.” Note the use of the words: “Upon the hearing on the petition” and “Is not the spouse of the debtor”. The statute does not state “was not ever the spouse of the debtor” or “At the time of the wrongdoing”. Appellant’s assertion that Melani was the spouse at the time of the wrongdoing violates the plain meaning of the statute.

Further, 8 of the 9 judgments are not in favor of Melani but rather, the LLC which owned the property. These distinct entities are not the spouse of William and therefore should not be barred from recovery.

Appellants attempt to cloud the issue by citing to a similar statute in California. A decision of another jurisdiction is not binding on this court. *Churchill Cnty. v. State Eng'r* (In re Nev. State Eng'r Ruling No. 5823), 277 P.3d 449, 128 Nev. Adv. Op. 22 (Nev., 2012). See also *Oliver v. Bank of Am.* 381 P.3d.647 (Table) (Nev. 2012). No. 57309, 2012 Nev. Unpub. Lexis 211, 2012 WL 425728(2012). As the language of the statute plainly states that, at the hearing, the aggrieved party has to show they are not the spouse of the person who committed the fraud, it should be construed to allow Melani’s recovery. To do otherwise

would make it impossible for a former spouse to ever recover from their ex for real estate fraud which clearly is not the intent of the statute. Further, 8 of the 9 judgments are by separate entities who assigned their interest to Melani and therefore would not be subject to any spousal provision.

The facts in *Powers v. Fox* 195 Cal. Rptr. 130, 147 Cal.App.3d 371 (Cal.App.,1983), cited by Appellants are distinguishable as they are somewhat unique. In *Powers*, the parties both specifically agreed to act in the transaction together and therefore the wife was directly involved in the acts which led to the fraud. *Booth v. Robinson* 195 Cal. Rptr. 130, 147 Cal. App. 3d 371 (Cal. App. 1983). In the instant case, Melani did not agree to act in concert with William and was not involved in the acts which led to the fraud.

Melani should not be barred from recovery as the plain meaning of the statute, as well as any reasonable determination, leads to the conclusion that the spousal bar is at the time of the petition hearing, not the time of the fraud. Further, as 8 of the 9 judgments were by plaintiff LLC's, they are not barred by the statute and the other judgment payable to Melani has been paid by the Division.

C. THE JUDGMENT COMPLIED WITH NRS 645.844.

Appellant's second argument that the final judgment did not comply with NRS 645.844(1) is without merit. Appellant presents a nonsensical argument about the properties and the company Sabreco being community property and therefore cannot be defrauded. This is not accurate. First of all the Division found William acted outside the scope of his broker position with Sabreco. Nor is his broker position immune from liability to community assets managed by Sabreco for which William was the broker. Melani and the 8 other entities involved in this appeal obtained valid judgments against William for fraud and they are able to make a claim pursuant to NRS 645.844 in the same manner as any entity or individual. . The LLC's were victims of William's fraudulent conduct and therefore should not be barred from recovery.

NRS 645.0445 provides, in relevant part, that,

“The provisions of this chapter do not apply to, and the terms “real estate broker” and “real estate salesperson” do not include, any:
a) Owner or lessor of property or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as incident to the management of or investment in the property...”

NRS 645.0445 is intended to eliminate the need for a license if a person is only acting on behalf of his own properties. In other words, an individual does not need to obtain a real estate license in order to rent his own properties.

However, in this case William was a licensed broker. He was not a direct owner of the properties, rather he was a broker for Sabreco who contracted with LLC entities and property owners to manage their properties, rents and deposits. Once licensed, William had the same responsibility to the LLC properties as he did to any client of Sabreco. William's duties were more than simply collecting rent and deposits, rather the judgment cites William mismanaging the trust account, allowing a non-licensed person to sign on the trust account's behalf, and resulting in the loss of \$200,000 or more of client's funds, including deposits due, not just to the LLC entities or Melani, but to their tenants.

William was, in fact, acting as a licensed broker, maintaining a trust account, collecting rents and deposits and committing fraud against all of Sabreco's clients, including the separate LLC properties. His fraud was committed in mismanaging the trust account, allowing a non-licensed person to sign on the trust accounts and resulting in the loss of \$200,000 or more of client's funds including deposits due, not just to the LLC entities or Melani, but to their tenants.

Appellant is actually rehashing the same argument made earlier, regarding a spouse not being allowed to recover as evident by his continued reliance on *Powers*, "As the Court in *Powers* noted, "the theory of the statute setting up the fund is that a citizen has relied, to his damage, on the implied representation, inherent in the fact of licensure, that the licensee is honest and dependable".

Powers, 96 Cal. App. 3d at 445, 158. Instead, here, “where the victim and the fraudulent actor are married, the reliance is more likely based on the marital relationship with the trust therein involved than on the license.” *Id.*

California’s interpretation, which is not binding on this court, of their statute acts on the archaic concept that customers’ involvement with a broker are based on the broker being married. In today’s society, this interpretation has no merit. In today’s society, rarely, if ever, does a customer even inquire as to whether their broker is married. Nor should that discriminatory concept act to bar a former spouse from recovering.

Appellant, in an erroneous leap of logic, makes the conclusion that the judgments were not something for which a license was required. In fact, a real estate license is required to collect rents and security deposits on behalf of the client, in this case, the LLC entities. William was required to be licensed because he was the managing broker of Sabreco who had many clients, some the LLC entities herein and some third parties. The money was placed in the same real estate trust accounts of Sabreco with the intention of it being properly monitored. William failed to reconcile the trust accounts, failed to return deposits, kept and spent the funds for his own purpose and acted with fraud, misrepresentation and deceit. He allowed a non-broker employee to sign on these accounts and \$200,000 or more was lost as a result.

It is unconscionable to bar recovery by the LLC entities and Melani who lost money they had to pay to tenants or was due to them from tenants, as a result of the same broker fraud that allows other entitles to recover. The LLC entities and Melani relied on Williamstatus as a broker and trusted him to manage the properties.

D. APPELLANT HAS NO STANDING TO ATTACK THE DECREE OF DIVORCE

This court, in its November 30, 2018 Order Dismissing Appeal in Part stated,

“We also conclude, however, that appellant is not aggrieved by the May 18, 2017, order, or the judgments against William Schulte because the order and judgments do not affect any rights of appellant. See Valley Bank of Nev. v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (defining an aggrieved party as one whose personal or property rights are substantially and adversely affected by a ruling of the district court). Therefore, we conclude that appellant lacks standing to appeal from these orders, see NRAP 3A(a); Valley Bank, 110 Nev. at 446, 874 P.2d at 734 (this court only has jurisdiction to consider an appeal where it is brought by an aggrieved party), and we dismiss this appeal from the May 18, 2017, order and the judgments against William Schulte.”

Appellant argues the Decree of Divorce was void as the court lacked jurisdiction to enter the judgment. The Appellant is barred from making this argument as this court dismissed the portion of his appeal attacking the judgments against William which include the Amended Decree.

Appellant is also incorrect in its allegation that the court cannot “amend a property judgment after it is final and the time for seeking relief from the judgment has passed”. Appellant even cites language that special circumstances may allow a judgment after that point. *Mizrachi v. Mizrachi*, 132 Nev. Adv. Op. 66, 385 P.3d 982, 986(Nev. App. 2016).

Appellant ignores NRS 125.150(3) which states:

3. A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment as the result of fraud or mistake. A motion pursuant to this subsection must be filed within 3 years after the discovery by the aggrieved party of the facts constituting the fraud or mistake. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:

(a) The community property or liability was included in a prior equal disposition of the community property of the parties or in an unequal disposition of the community property of the parties which was made pursuant to written findings of a compelling reason for making that unequal disposition; or

(b) The court determines a compelling reason in the interests of justice to make an unequal disposition of the community property or liability and sets forth in writing the reasons for making the unequal disposition.

To the extent Melani was unaware of the amounts of liability she and the LLC entities suffered due to the fraud of William, which were not discovered

until after the 2013 Decree of Divorce, the court retained jurisdiction to adjudicate the assets and liabilities.

However, the original Decree did award Melani the business and the properties and found that William was liable for any judgments and debts as his sole and separate debt. Appellant's reliance on *Kramer v. Kramer*, 616 P.2d 395, 96 Nev. 759 (Nev., 1980) is misplaced. *Kramer* held "Absent specific authorization for continuing jurisdiction over property rights, NRCP 60(b) governs motions to modify property rights established by divorce decrees. *In re Marriage of Gallegos*, 580 P.2d 838 (Colo.App.1978). Frances' motion to modify was filed three years after the decree was entered; not within six months, as NRCP 60(b) requires. *Kramer v. Kramer*, 616 P.2d 395, 96 Nev. 759 (Nev., 1980).

The court retains jurisdiction to enforce an order or judgment. See NRS 21.005 et seq. Further, the court may clarify an existing order. An order clarifies a decree when it "defin[es] the rights that have already been awarded to the parties." *Vaile v. Porsboll*, 128 Nev. 27, 33, 268 P.3d 1272, 1276 (2012).

The amended judgment was a clarification of the District Court's existing orders finding William personally liable for all wrongdoing prior to Melani taking over Sabreco. The amended decree included mere language modifications specifying the property names.. The Decree already ordered that the 32 properties, which included the 9 claims presented in the instant case, were awarded to Melani.

Including the individual names of the properties was merely clerical. The court further awarded, in the initial decree, that William was liable for all the damages prior to Melani taking over in the Fall of 2012 as his sole and separate debts. The amended order did not alter that provision and merely clarified that he was responsible for the money Melani had to pay on her own to the clients who pursued recovery. The amended decree was not a modification of the property orders. No additional property was awarded to Melani and no additional debt not previously contemplated by the court was awarded to William. Therefore, the amended decree was just a clarification and within the court's jurisdiction.

E. NRS 645.844 DOES NOT LIMIT RESPONDENT TO ONE CLAIM.

Appellant's claim that NRS 645.844 bars Melani from recovering more than one claim is without merit. The courts have held that the "intent of the legislature is the controlling factor in statutory interpretation." *Cleghorn v. Hess*, 109 Nev. 544, 548, 853 P.2d 1260, 1262 (1993). Further, the amendment of a statute is persuasive evidence of what the legislature intended by the original statute. *Sheriff v. Smith*, 91 Nev. 729, 734, 542 P.2d 440, 443 (1975). *Administrator of the Real Estate Educ., Research and Recovery Fund v. Buhecker*, 945 P.2d 954, 113 Nev. 1147 (Nev., 1997) In 1985, the Nevada Legislature amended NRS 645.844(1). S.B. 268, 63d Leg. (Nev.1985). The amount recoverable from the fund was changed to \$10,000.00 **per judgment**, rather than **per claimant**. S.B. 268, 63d Leg.

(Nev.1985). This is evidence that the legislature intended to limit joint claimants' recovery to \$10,000.00 per judgment they received, and not to each claimant. Thus, the number of claimants in a joint action is irrelevant; only the number of judgments they received together is determinative of their recovery under the ERRF. *Administrator of the Real Estate Educ., Research and Recovery Fund v. Buhecker*, 945 P.2d 954, 113 Nev. 1147 (Nev., 1997) emphasis added. The amount of the fund was changed to \$25,000 by AB 114 in 2005.

Statutes with a protective purpose should be liberally construed in order to effectuate the benefits intended to be obtained. *Welfare Div. v. Washoe Co. Welfare Dep't.*, 88 Nev. 635, 503 P.2d 457 (1972).

Courts can determine the legislative intent for enacting a particular statute by looking at the entire act and construing the statute as a whole in light of its purpose. *White v. Warden*, 96 Nev. 634, 614 P.2d 536 (1980). Where the purpose of the legislation is expressly stated, that purpose is a factor to be considered in interpreting a given statute. *Alper v. State ex rel. Dep't Hwys.*, 96 Nev. 925, 621 P.2d 492 (1980); *Sheriff v. Smith*, 91 Nev. 729, 542 P.2d 440 (1975).

The primary purpose of the Fund is to aid victims of real estate fraud whose judgments against real estate licensees have proven to be uncollectable. NRS 645.844. *Colello v. Administrator of Real Estate Div. of State of Nev.*, 683 P.2d 15, 100 Nev. 344 (Nev., 1984). Here, there were 9 separate judgments claiming

against the funds. Melani is entitled to recover on each judgment as the legislature intended.

CONCLUSION

For the above reasons, Appellant's appeal should be denied in its entirety and the lower court orders upheld. Appellant is entitled to her attorney fees and costs for defending this appeal.

DATED this 27th day of March, 2019

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because: This brief has been prepared in a proportionally spaced typeface using Word size 14, Times New Roman font.

I further certify that this brief complies with the formatting requirements of NRAP 32(a)(4 – 6), and complies with the type-volume limitations stated in NRAP 32(a)(7), as it contains 5,693 words.

Finally, I hereby certify that I have read this answering brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on it to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 27th day of March, 2019

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NRAP RULE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

- Melani SCHULTE – RESPONDENT
- SHARATH CHANDRA ADMINISTRATOR NEVADA REAL ESTATE
- DIVISION – Appellant
- William - RESPONDENT
- AMBERLEA DAVIS, ESQ. – RESPONDENT’S COUNSEL
- DONALD J. BORDELOVE, ESQ. – Appellant’S COUNSEL

DATED this 27th day of March, 2019

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ROUTING STATEMENT PURSUANT TO NRAP 28(a)(5)

Pursuant to NRAP 28(a)(5) and NRAP 17, this matter is appropriately heard by the Supreme Court as it raises a principal issue of a question of statewide public importance.

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CERTIFICATE OF SERVICE

I hereby certify I am over the age of 18 and not a party to this action. On March 27th, 2019, I served a true and correct copy of Appellant's brief by electronic service through eflex on:

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 /s/ Amberlea Davis
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