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1 Case No. 96-CV-0094

2 Dept. No. 1

'97 JUL 30 P2:19

D. DALEY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

THOMAS GRIEVE,

Plaintiff,

vs.

JUDGMENT

NO FSBOS CORPORATION, dba
RE/MAX REALTY AFFILIATES,
JULIE ANN BOLT, JOHN FISHER,
Does 1-10, and Corporations
1-10,

Defendants,

This action was tried before the Court July 23, 1997. Plaintiff Thomas Grieve (Grieve) was represented by Mark A. Hughs, Esq., of Mark H. Gunderson, Ltd. Defendants NO FSBOS Corporation, d/b/a/ RE/MAX Realty Affiliates, Julie Ann Bolt (Bolt) and John Fisher (collectively, REMAX) were represented by Ronald T. Banta, Esq. Based upon the evidence and testimony presented to the Court and the papers and pleadings on file with the Court, the Court finds:

Grieve is a licensed Colorado and Wyoming real estate broker. Bolt is a Nevada real estate agent, working under John Fisher, her broker. John Fisher is the corporate broker for RE/MAX Realty Affiliates. Grieve brought this action for breach of contract and unjust enrichment against REMAX based on REMAX's failure to split

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1 a \$42,000.00 referral fee with him.

2 REMAX was to pay Grieve his share of the proceeds pursuant to
3 a July 14, 1995 offer written by Bolt. Grieve accepted the offer
4 by letter dated July 18, 1995. The referral fee was paid by the
5 Colorado broker (Cranston) who listed a ranch purchased by Lester
6 and Connie Rosaschi (Rosaschis), who learned of the ranch from
7 Grieve. Grieve had originally informed the Rosaschis that the
8 ranch was for sale on or about March 27, 1995, and he subsequently
9 provided them with information on the ranch and other assistance
10 related to its purchase.

11 At trial, REMAX argued it had rescinded the fee-splitting
12 agreement. REMAX's justification for such rescission was that the
13 offer was premised upon REMAX's belief that Grieve would
14 participate in showing the ranch to the Rosaschis and in closing
15 the transaction. However, the evidence presented to the Court
16 demonstrates that no such contingency or expectations were part of
17 the parties' agreement. Furthermore, Grieve was not aware of any
18 such contingency.

19 A contract may be rescinded only where there is fraud, a
20 mutual mistake, or a unilateral mistake of fact known to the other
21 party. Oh v. Wilson, 112 Nev. 38 (1996). There was no fraud,
22 mutual mistake or unilateral mistake in this case. Thus, no basis
23 for rescission exists.

24 Grieve was the party who first introduced the Colorado ranch
25 to the Rosaschis. His efforts set in motion the chain of events
26 which led to the Rosaschis' purchase of the ranch. No legal basis
27 exists for REMAX to retain the proceeds stemming from Grieve's
28 efforts, which proceeds were promised to Grieve. 0419067

1 THEREFORE, IT IS ORDERED:

2 That Judgment is entered for Grieve and against NO FSBOS
3 Corporation, Julie Ann Bolt and John Fisher, jointly and severally,
4 in the amount of \$21,000.00 plus interest at the statutory rate
5 under NRS 17.130, which interest shall accrue from March 6, 1996
6 until paid.

7 DATED this 30 day of July, 1997.

8 *David R. Gaudin*

9 District Judge

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23 **CERTIFIED COPY**

24 The document to which this certificate is attached is a
25 full, true and correct copy of the original on file and of
record in my office.

26 DATE: August 6, 1997

SEAL

27 *Greedy* Clerk of the District Court
of the State of Nevada, in and for the County of Douglas,

28 By *jthaler*

Deputy

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LINDA SLATER
RECORDER

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