



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND
INSURANCE TENNESSEE REAL ESTATE
COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
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<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission held a meeting April 8, 2020 at 8:30 a.m. CST via the WebEx meeting platform based at the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, TN 37243. The meeting was called to order by Chairman John Griess. Chairman Griess welcomed everyone to the Board meeting.

Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Chairman John Griess, Vice-Chair Marcia Franks, Commissioner Steven Guinn, Commissioner Bobby Wood, Commissioner Joe Begley, Commissioner John Moffett, Commissioner Stacie Torbett, and Commissioner Geoffrey Diaz. Quorum Confirmed. Others present: Executive Director Caitlin Maxwell, Assistant Commissioner Toby Compton, Associate General Counsel Anna D. Matlock, Associate General Counsel Kristen Downey, paralegal Carol McGlynn, Education Director Ross White, and TREC Staff member Aaron Smith.

Associate General Counsel Anna Matlock read the “Statement of Necessity” into the record.

Motion to approve the “Statement of Necessity” was made by Vice-Chair Marcia Franks and seconded by Commissioner Steven Guinn. Motion passed unanimously by roll call vote. Commissioner Wood was not present for the vote.

The April 8, 2020 board meeting agenda was submitted for approval.

Motion to approve the agenda as amended was made by Vice-Chair Franks and seconded by Commissioner Diaz. The agenda was amended to include “Assistant Commissioner Toby Compton” and “Classroom Courses.” Motion passed unanimously by roll call vote.

Minutes for the March 11, 2020 board meeting were submitted for approval.

Motion to approve the March 11, 2020 minutes as amended was made by Commissioner Diaz and

seconded by Commissioner Torbett. The minutes were amended to add the failed motion originally made regarding Anthony Willoughby's Broker license. Motion passed unanimously by roll call vote. Commissioner Begley was not present for the vote.

INFORMAL APPEARANCES

Brad Feliciano appeared before the commission with his Principal Broker Ron Hodges to be granted permission to receive his Affiliate Broker license.

Motion to approve Mr. Feliciano was made by Commissioner Moffett and seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote. Commissioner Begley was not present for the vote.

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Jerry Page appeared before the commission with his Principal Broker Craig Johnson Jr. to be granted permission to receive his Affiliate Broker license.

Motion to approve Mr. Page was made by Vice-Chair Franks and seconded by Commissioner Wood. Motion passed unanimously by roll call vote. Commissioner Begley was not present for the vote.

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EDUCATION REPORT

Education Director Ross White presented the education report to the Commission.

Motion to approve courses A1-A29 was made by Commissioner Wood and seconded by Commissioner Diaz. Motion passed unanimously.

After further discussion, Chairman Griess made the motion to approve course M1. The motion was seconded by Commissioner Wood. Motion passed unanimously by roll call vote by roll call vote. Commissioner Begley was not present for the vote.

Education Director Ross White presented instructor biographies to the Commission.

Motion to approve instructors was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

EXECUTIVE DIRECTOR'S REPORT

Topics:

- **TREC Staff:** Director Maxwell updated the commission on the current status of the staff working from home. Staff continues to handle mail, calls, and issues with no break in service

other than in person contact. We are experiencing a “slow down” in application/transaction submissions.

- **PSI:** Director Maxwell informed the Commission that PSI, the state testing provider, is closed until May 1, 2020.
- **TBI:** Director Maxwell informed the commission that our fingerprint provider has select number of open facilities offering fingerprint services.
- **West TN May Commission Meeting:** Chairman Griess advised rescheduling of the May West TN Commission meeting until a future date could be secured due to the current status of the State of Tennessee in regard to the COVID-19 global pandemic.

Motion to postpone the May West TN commission meeting and have a one (1) day meeting in Nashville on May 7,2020 was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

COMMISSION DISCUSSION:

Assistant Commissioner Toby Compton: Advised the commission the department is working with the Governor’s office to carry out the best interest of the constituents of the State of Tennessee. Assistant Commissioner Compton also advised the Department highly encourages the usage of online courses through the current global pandemic.

CLASSROOM COURSES

Continuing Education providers were given the approval to turn classroom courses into internet courses during the current COVID-19 global pandemic. Providers wishing to use this method must submit to Director White a completed request form, in addition a link to access the course. The commission also asked the MAAR(Memphis Area Association of REALTORS)guidelines be incorporated.

CONSENT AGENDA:

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal, legal has recommended either dismissal or discipline. The Commission pulled the following cases for further discussion: 2020000021, 202000161, 2020000811, 2020002031, 2020004621, 2020007941, 2020002821, 2019103091, 2020005161, 2019096241, 2020000901, 2020004731, 2019099281, 2019100831, 2020002811, 2020006471, 202000779.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal’ s recommendation to dismiss complaint 2020000021, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept

legal' s recommendation to dismiss complaint 202000161, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal' s recommendation to dismiss complaint 2020000811, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to **issue a consent order with a \$4,000.00 civil penalty for failure to provide copies of the lease agreements to the owners** on complaint 2020002031, seconded by Vice-Chair Franks. Motion passed 5-2 by roll call vote. Commissioner Begley and Commissioner Diaz voted against. Commissioner Torbett was absent for the vote.

After further discussion by the Commission, Commissioner Diaz made the motion to accept legal' s recommendation to dismiss complaint 2020007941, seconded by Commissioner Torbett. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to **issue a consent order with a \$1,000.00 civil penalty for failure to exercise reasonable skill and care and a four (4) hour continuing education course in Contracts to be completed within 180 days above and beyond what is required for licensure on** complaint 2020002821, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal' s recommendation to dismiss complaint 2019103091, seconded by Commissioner Begley. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal' s recommendation to dismiss complaint 2020005161, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion to accept legal' s recommendation to **downgrade Respondent's licensure status to Affiliate for three (3) years after which Respondent may reapply for Principal Broker licensure status on** complaint 2019096241, seconded by Commissioner Wood. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion to **issue a \$1,000.00 civil penalty and a four (4) hours of continuing education in Contracts to be completed within 180 days of the execution of the consent order. Additionally, the Commission voted to open a complaint against the Principal Broker for failure to supervise on** complaint 2020000901, seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion to **issue a \$1,000.00 civil penalty for failure to exercise skill and care** on complaint 2020004731, seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion to **issue a consent order with a \$500.00 civil penalty for violation of Tenn. Code Ann. § 62-13-403(1) and four (4)**

hours continuing education in Contracts to be completed within 180 days of the execution of the consent order on complaint 2019100831, seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Begley made the motion to **issue a Letter of Warning on** complaint 2020006471, seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Begley made the motion to **accept counsel's recommendation; however, they voted to eliminate the ethics course and also to downgrade the Respondent's license to affiliate broker and in three years when eligible, Respondent must fulfill all requirements to upgrade license on** complaint 2020007791, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

Let the record reflect that Chairman John Griess recuses himself on complaints: 2020004621, 2019099281, and 2020002811,

KRISTEN DOWNEY

1. 2019098631

Opened: 12/8/2019

First Licensed: 5/3/2011

Expires: 5/2/2021

Type of License: Real Estate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker.

Complainant alleges that Respondent made misrepresentations and intentionally deceived them when Respondent informed them that the builder would repair the drywall in their home. Complainant states that the home warranty that was provided to them expressly excluded the drywall repair.

Respondent filed a response stating they took note of the Complainant's repair requests and relayed the information to the builder. Respondent states that they made it clear to the Complainant that they could not make any representations on behalf of the builder in terms of repairs. Respondent attached supporting documents indicating the discussed repairs.

Recommendation: Dismiss. Based on the supporting documents it does not appear that the Respondent made any misrepresentations.

Decision: The Commission accepted counsel's recommendation.

2. 2019099271

Opened: 12/9/2019

First Licensed: 4/16/1985
Expires: 4/10/2020
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent helped them purchase a home that did not belong to the person who sold it. The home belonged to a deceased individual and the individual who was selling the home did not have a valid power of attorney. Complainant states that this caused them to spend money on a hotel until the issue was resolved.

Respondent filed a response stating that they deny all allegations. Respondent states that they were told by the Seller that they were the heir to the property and provided supporting documentation. Respondent states that they submitted this information to the closing attorney prior to closing. It was discovered that the Seller did not own the property and the supporting documents were invalid.

Recommendation: Dismiss. The Respondent relied on the information provided to them by the Seller. There is no evidence that the Respondent had knowledge that the Seller did not own the property.

Decision: The Commission accepted counsel's recommendation.

3. 2019098451

Opened: 12/9/2019
First Licensed: 8/23/2017
Expires: N/A
Type of License: Time Share Registration - Exempt
History: None

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant alleges that they entered a contract for a timeshare interest in Tennessee on August 21, 2019. Following the contract, they sent a request to rescind the contract on August 27, 2019. Complainant states that the Respondent refused to acknowledge receipt so they sent another letter through certified mail on September 9, 2019. Complainant attached copies of the letters they sent to Respondent. Complainant also attached a copy of a letter drafted by their attorney to Respondent.

Respondent filed a response stating Complainant entered a contract for a timeshare interest on August 21, 2019. Respondent states that the contractual documents fully disclose the agreement between them and Respondent. Respondent states that the contract included the rescission rights language. The Complainant was allegedly outside of the rescission period when they requested to cancel the contract. Respondent attached a copy of the contract which included the required rescission language and the Complainant's signature.

Complainant filed a rebuttal stating that they sent the cancellation letter within the statutory period, but it was not a certified letter and Respondent refuses to acknowledge that they received the letter.

Recommendation: Dismiss. While Complainant provided a copy of the letters that were sent, the first one was not sent by certified mail so there is no way to verify that the letter was actually sent and received by the Respondent.

Decision: The Commission accepted counsel's recommendation.

- 4. 2019100051**
 - Opened: 12/11/2019**
 - First Licensed: 7/18/1986**
 - Expires: 10/31/2021**
 - Type of License: Affiliate Broker**
 - History: None**

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant states that the Respondent refused to provide them with a property disclosure document. Complainant states that they contacted Respondent's office several times and did not receive a response to their requests. Complainant states that they had a right to know information about the home such as its age, whether anyone died in the home, and whether the home had been vacant.

Respondent filed a response stating that they were not involved in the real estate transaction, nor are they the broker of their firm. Respondent states that they passed the complaint on to their broker.

Recommendation: Dismiss. There is nothing to indicate that the Respondent was involved in the complained of real estate transaction.

Decision: The Commission accepted counsel's recommendation.

- 5. 2019100131**
 - Opened: 12/11/2019**
 - First Licensed: 1/25/2017**
 - Expires: 1/24/2021**
 - Type of License: Affiliate Broker**
 - History: None**

This complaint is related to 2019100051.

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant states that the Respondent refused to provide them with a property disclosure document. Complainant states that they contacted Respondent's office several times and did not

receive a response to their requests. Complainant states that they had a right to know information about the home such as its age, whether anyone died in the home, and whether the home had been vacant.

Respondent filed a response stating that they met the Complainant and helped them sell their home. Respondent introduced Complainant to another licensee to help them search for a home to purchase. Complainant reached out to Respondent for disclosure documents for the home they were attempting to purchase. Respondent told Complainant to contact the licensee who was helping them with the purchase of their new home because Respondent was not involved in that transaction and did not have the requested documents.

Complainant filed a rebuttal stating that they have no complaints with Respondent. Complainant originally thought that Respondent was the Principal Broker who was supposed to be monitoring their licensee.

Recommendation: Dismiss. Respondent is not listed as a licensee involved in the real estate transaction at issue.

Decision: The Commission accepted counsel's recommendation.

6. 2019101681

Opened: 12/20/2019

First Licensed: 10/14/1999

Expires: 7/30/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent misrepresented a rental property and falsified the lease. Complainant alleges that Respondent did not disclose that there was a radon abatement system that must run twenty-four hours a day that is attached to the exterior wall of the home that faces the bedroom window. Complainant further alleges that the lease states that stored items should be in the house or garage and cars can only be worked on inside the garage with the garage door shut; however, the garage is filled with Respondent's belongings which Respondent refuses to remove from the garage. The Respondent allegedly represented that the home had a working fireplace, however, they discovered that there is no damper and the chimney is stuffed with insulation. Respondent attached pictures of the property.

Respondent filed a response stating that the Complainant is disgruntled as they rented the property sight unseen despite the suggestions that Complainant visit the property since the property was being rented "as is" with no improvements. Respondent states that the home is old with an original fireplace which has never been used and was not represented to be in working order. Respondent states that the radon abatement system has been part of the house since the home was purchased. With respect to the garage, Respondent states that the garage is an original structure and has never been used as a garage since the home was purchased. Respondent states that the lease agreement

has a section where the tenant may list anything they are not satisfied with prior to accepting the property in “as is” condition. Complainant did not make any complaints. Respondent attached a copy of the lease agreement.

Recommendation: Dismiss. Complainant provided no evidence to support their allegations.

Decision: The Commission accepted counsel’s recommendation.

- 7. 2019101821**
 - Opened: 12/20/2019**
 - First Licensed: 4/12/2019**
 - Expires: 4/11/2021**
 - Type of License: Real Estate Firm**
 - History: None**

Complainant is an anonymous individual. Respondent is a licensed real estate firm.

Complainant alleges that Respondent did not mention their firm affiliation in their advertisement while working as a team/group affiliated with a firm.

Respondent filed a response stating that the firm has individual agents, teams and separate firms located within the same office address and suite. Respondent provided their firm license number.

Recommendation: Dismiss. Respondent is a licensed firm with a licensed principal broker.

Decision: The Commission accepted counsel’s recommendation.

- 8. 2019102111**
 - Opened: 12/23/2019**
 - First Licensed: 4/20/2011**
 - Expires: 5/30/2021**
 - Type of License: Principal Broker**
 - History: 2018 Consent Order with \$500 civil penalty and 4 hrs CE in contracts for failure to exercise reasonable skill and care**

Complainant is an out-of-state resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent misled their spouse to accept a rental offer with a delayed closing of February 2021. Because of Respondent’s delay Complainant’s spouse has been held in contempt of court as the house was to be sold in February 2020. The property in question is located out-of-state.

Respondent filed a response stating that the property is located out-of-state and the complaint was erroneously filed in Tennessee. Respondent further states that Complainant’s ex-spouse was the owner of the property and entered a listing agreement with them. Respondent states that they worked with contractors for the repairs of the house. They received an offer for full asking price

for the property and Respondent advised the Seller that they would be acting as the facilitator of the transaction. Complainant and their ex-spouse (owner of the property) finalized their divorce, so the owner advised Respondent not to share information with Complainant regarding the transaction. Complainant contacted Respondent and requested a copy of the purchase and sale agreement. Respondent refused. Complainant was upset by this and had their litigation manager contact Respondent stating that they were wrong for not providing Complainant with the purchase and sale agreement.

Recommendation: Dismiss. There do not appear to be any violations of the Rules or Statutes. Further, this involves a real estate transaction out-of-state.

Decision: The Commission accepted counsel's recommendation.

9. 202000021

Opened: 1/1/2020

First Licensed: 5/26/2010

Expires: 5/25/2020

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate firm.

Complainant alleges that they purchased a property that was advertised as having public water, but it does not.

Respondent filed a response stating that the Complainant completed a property disclosure form 80 and under the utilities section the seller marked that the property had public water available. Complainant purchased the property; however, the public water was on another person's property to the north of the Complainant's property. After purchasing the property, Complainant contacted the utility company to secure hookup and was told by the water department that they were unable to supply water due to low water pressure caused by so many recent new hookups in the area placing great demand on the system. Respondent states that they had no knowledge of the water issue on the property.

Recommendation: Dismiss. There is no evidence to substantiate that the Respondent intentionally misrepresented information regarding the property.

Decision: The Commission accepted counsel's recommendation.

10. 202000161

Opened: 1/2/2020

First Licensed: 3/7/1986

Expires: 12/28/2020

Type of License: Real Estate Firm

History: None

Complainant is an out-of-state resident. Respondent is a licensed real estate firm.

Complainant states that a real estate licensee from Respondent firm listed and sold their property in Tennessee. A licensee from the Respondent firm agreed to unlock Complainant's house and allow a person to pick up their dining room furniture that sold for \$300 and the licensee would write them a check for \$300 and send it to them. The licensee informed Complainant that the furniture was picked up and paid for and that the licensee mailed them a check for \$400 (\$300 for the furniture and \$100 because the licensee gives \$100 to all their clients when they sell their house.). Complainant alleges that the check never arrived. Respondent alleged that they transposed Complainant's street address and it was returned by USPS. Respondent agreed to send it to the correct address, but the check never arrived. Complainant called and left several messages, but Respondent did not return the calls.

Respondent filed a response stating that they sent the \$400 check (\$300 for the furniture and \$100 as the closing gift to the Complainant). Complainant states that they never received the check. Respondent attached a copy of the check written on 12/20/2019 and cashed on 1/3/2020.

Complainant filed a rebuttal stating that the matter has been resolved.

Recommendation: Dismiss complaint against the firm and open a complaint against the licensee involved in the transaction for giving a rebate associated with a real estate transaction in violation of T.C.A. § 62-13-302.

Decision: The Commission accepted counsel's recommendation.

11. 2020000811

Opened: 1/5/2020

First Licensed: 9/19/2015

Expires: 8/14/2021

Type of License: Real Estate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker.

Complainant alleges that Respondent advised them to make an offer that was \$5,000 over the asking price and to give the Seller's agent \$3,500 as a "red envelope" to secure the offer. They closed on the house and found multiple issues. Complainant alleges that they spoke with other licensees about the transaction and they advised Complainant that giving a "red envelope" was an improper practice. Complainant is requesting the return of the \$3,500 that was given to the Seller's agent during the transaction.

Respondent filed a response stating that Complainant made offers on five (5) other homes and was outbid so the Complainant became frustrated. Respondent showed Complainant the home at issue and Complainant loved the house. Complainant offered \$5,000 over the asking price to secure the home before the open house. Respondent further denies that they suggested a "red envelope" to Seller's agent, but instead Respondent gave 1% of their commission (\$3,450) to Seller's agent to allow the transaction to go through. After closing, Complainant informed Respondent of some issues with the property. Respondent spoke with the home inspector regarding the issues in an effort to get some resolution. The home inspector advised that the issues complained of by the

Complainant did not exist at the time of the home inspection. Complainant is now attempting to blame the Respondent for the issues with the home; however, prior to closing, the Complainant agreed to and signed a repair addendum which listed all the repairs that were needed at the time. Respondent attached the purchase and sale agreement; the repair addendum; the home listing; and the home inspection report.

Recommendation: Dismiss. Complainant provided no evidence of improper action by the Respondent. Based on the documents provided by the Respondent, it appears that the transaction was proper.

Decision: The Commission accepted counsel's recommendation.

12. 2020002031

Opened: 1/9/2020

First Licensed: 2/14/2001

Expires: 1/1/2021

Type of License: Principal Broker

History: None

Complainant is an out-of-state resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent refuses to provide them lease agreements for the property Respondent manages under their license. Complainant states that the lease agreements have been requested by the new property manager to ensure the current tenant agreements are honored. Complainant states that they are the current owner of the property and Respondent has also refused them access to the lease agreements. Complainant attached an email from Respondent. The email states "I will not be sharing [the lease agreements] with other property managers [because] the lease agreements we have with the tenants will not be valid once the properties are sold and under new management [and] new lease agreements will need to be signed."

Respondent filed a response stating that they felt that since their lease agreements are specific to their company they did not think there was a need to share it with the new property manager. Respondent states that they did provide Complainant's new property management firm with a list of tenants which included the term of their leases and the tenants' contract information.

Recommendation: Dismiss.

Decision: The Commission voted to issue a consent order with a \$4000.00 civil penalty for failure to provide copies of the lease agreements to the owners.

13. 2020003321

Opened: 1/13/2020

Type of License: Unlicensed

History: None

Complainant is a real estate licensee. Respondent is an unlicensed individual.

Complainant alleges that Respondent is engaging in unlicensed activity. Complainant states that Respondent participated in the auction of a piece of real estate.

Respondent filed a response stating the auction Complainant referred to was the auction of a foreclosed property. At a foreclosure sale, Respondent acted on behalf of the foreclosure trustee and a foreclosure trustee is not required to hold a license to auction a foreclosure on behalf of a trustee.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

14. 2020003751

Opened: 1/16/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Exempt

History: None

Complainant is a Tennessee resident. Respondent is a licensed timeshare resort.

Complainant alleges that Respondent took advantage of them by making misrepresentations to get them to enter a timeshare contract. Complainant would like at least half of their money returned and to cancel the contract.

Respondent filed a response stating that the Complainant purchased a timeshare interest in 2016, 2017, and 2018. Respondent states that Complainant received the required disclosures and contract in which they signed. Respondent attached a copy of the contract.

Recommendation: Dismiss. The contract includes the required rescission language along with the Complainant's signature.

Decision: The Commission accepted counsel's recommendation.

15. 2020004431

Opened: 1/17/2020

First Licensed: 12/20/2018

Expires: 12/19/2020

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate firm.

Complainant alleges that they spoke with Respondent's licensee about renting a home with their roommate. Respondent's licensee showed them the property and informed Complainant that they would send the application to Complainant's roommate. Complainant and their roommate waited two hours and did not receive the application. They called to inquire and were assured that they

would receive the application. Complainant never received the application. When they finally got in contact with the licensee's assistant, they were informed that the property had already been leased. Complainant states that Respondent's licensee made willful misrepresentations, induced them to enter a contract, posted misleading advertisements, and for failed to give their license number upon request.

Respondent filed a response via their attorney stating that Respondent's licensee intended to send a rental application to Complainant but was under no legal obligation to do so. Respondent's licensee states that they received another renter's application and it was processed and rented to them. Respondent states that they made no misrepresentations or false promises to Complainant. Respondent states that another application was accepted prior to an application being tendered to Complainant.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

16. 2020004611

Opened: 1/18/2020

First Licensed: 4/9/2013

Expires: 12/9/2021

Type of License: Principal Broker

History: None

Complainant is an out-of-state resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent solicited them to purchase a property that would be managed by Respondent's property management company. Respondent also allegedly would oversee the rehabilitation of the property. Complainant alleges that Respondent did not disclose that their company was not acting with a Principal Broker. Complainant also alleges that Respondent neglected to send out monthly statements as well as neglected to oversee the rehabilitation of the property. Complainant further alleges that Respondent did not hold a contractor's license to oversee the rehabilitation. Complainant attached copies of emails from Respondent; a copy of the residential property management agreement; photos of the property; the appraisal report; and the rehabilitation invoices.

Respondent filed a response via their attorney stating that at Respondent has been affiliated with a licensed real estate firm since 2013. This real estate firm was licensed by a Principal Broker who also acted as the supervising Principal Broker of the property management company. All other issues regarding the rehabilitation of the property relate to allegations of a breach of contract rather than issues involving the real estate transaction.

Recommendation: Dismiss. Counsel confirmed licensure status as active.

Decision: The Commission accepted counsel's recommendation.

17. 2020004621

Opened: 1/19/2020
First Licensed: 3/21/2001
Expires: 8/12/2020
Type of License: Real Estate Firm
History: 2019 Close and Flag

Complainant is an out-of-state resident. Respondent is a real estate firm.

Complainant states that they terminated their property management contract with Respondent's firm on August 1, 2019 after the property manager dialed to deposit the rent they collected from Complainant's tenants. Complainant further alleges that Respondent has failed to account for missing deposits since 2017.

The Complaint was sent to Respondent. To date, Respondent has not filed a response. There have been several complaints filed against this firm and the licensee associated with the firm. We have sent out an investigator to investigate the allegations, however, the firm is no longer in operation. The location of the property manager is unknown.

Recommendation: Close and flag.

Decision: The Commission accepted counsel's recommendation.

18. 2020004671

Opened: 1/20/2020
First Licensed: 12/16/1999
Expires: 11/4/2020
Type of License: Principal Broker
History: None

Complainant is a real estate licensee. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent contracted on a house on January 8, 2020; however, on January 17, 2020, the contract was suddenly cancelled citing the inspection contingency, which Respondent allegedly failed to disclose. Complainant alleges that Respondent did not provide a sufficient basis for contract cancellation.

Respondent filed a response via their attorney stating that the Complainant's client (Buyer) made an offer to purchase Respondent's client's (Seller) home on January 8, 2020. Seller made a counteroffer on January 9, 2020, which Buyer accepted. Respondent states that section 7D of the purchase and sale agreement (PSA) provides that within ten days after the binding agreement date ("inspection period"), "Buyer shall cause to be conducted any inspection. . . ." The home was inspected on January 13, 2020. Following the home inspection, the Buyer informed Respondent that they wanted to exercise their right to immediately terminate the PSA with all earnest money/trust money refunded. Respondent states that they emailed Complainant a list of the Buyer's specified objections following the home inspection in compliance with the PSA. Respondent states that they issued a mutual release of the PSA and disbursement of earnest money/trust money to Complainant. Complainant requested a copy of the inspection report;

however, the Buyer did not want to provide them with the report. Respondent attached a copy of the PSA; the earnest money check; the buyer representation agreement; and the mutual release of PSA and disbursement of earnest money/trust money.

Complainant filed a rebuttal in which they requested to withdraw the complaint.

Recommendation: Dismiss. The main issue is whether the Respondent breached Section 7D of the PSA rather than regulation of the licensee's conduct.

Decision: The Commission accepted counsel's recommendation.

19. 2020005011

Opened: 1/21/2020

First Licensed: 4/30/1999

Expires: 11/23/2020

Type of License: Real Estate Firm

History: None

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant alleges that Respondent used high-pressure sales tactics and took advantage of Complainant's age to convince Complainant to purchase points for a timeshare interest.

Respondent filed a response stating that Complainant has been a timeshare owner since 1986 with additional purchases in 2016 and 2018. Complainant agreed to apply their equity toward the purchase of a new contract in which Complainant would be issued annually allocated points. Complainant chose to open a credit account to purchase the timeshare interest. Complainant also signed and received fully disclosed contractual documents at the time of purchase. Respondent attached a copy of the contract.

Recommendation: Dismiss. The contract contains the appropriate rescission language and the Complainant's signature

Decision: The Commission accepted counsel's recommendation.

20. 2020004881

Opened: 1/21/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration - Exempt

History: None

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant alleges that they attended a membership presentation in which they experienced high-pressure sales tactics. Complainant alleges that Respondent made false statements and several misrepresentations.

Respondent filed a response stating that Complainant entered a contract for a timeshare interest on March 5, 2019. Respondent states that Complainant received a copy of the contract at the time of entry. Respondent attached a copy of the contract.

Complainant filed a rebuttal stating that Complainant is elderly and was defrauded by Respondent. Respondent made specific promises that were untrue. Respondent states that there are equitable concerns that need to be addressed.

Recommendation: Dismiss. The contract contains the appropriate rescission language, along with Complainant's signature.

Decision: The Commission accepted counsel's recommendation.

21. 2020005971

Opened: 1/23/2020

First Licensed: 1/1/1901* (database error)

Expires: 6/22/2021

Type of License: Real Estate Firm

History: None

Complainant is a licensed Principal Broker. Respondent is a licensed real estate firm.

Complainant alleges that Respondent is making a promise for monetary value prior to the customer becoming a client. The Complainant states that the Respondent has a sign that says "List or Buy With Us and We Will Let You Use This Truck".

Respondent filed a response stating that the moving truck is used as a service and advertisement for the firm. It is not provided as a form of compensation but as a service to their customers and community.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

22. 2020005411

Opened: 1/23/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Exempt

History: None

Complainant is an out-of-state resident. Respondent is a licensed timeshare resort.

Complainant alleges that Respondent made misrepresentations about turning points into payments. Respondent would like to cancel the contract and receive a refund.

Respondent provided a response stating that Complainant attended a timeshare sales presentation. Complainant entered a timeshare contract in which they received copies of the contract and executed with their signatures. Respondent acknowledges that Complainant executed a request to cancel the contract; however, the request was outside of the rescission period. Respondent alleges that their documents fully disclose all of Complainant's rights in terms of the timeshare interest. Complainant provided a copy of the timeshare contract.

Complainant filed a rebuttal stating that they no longer want to pursue the dispute.

Recommendation: Dismiss. The contract contains the proper rescission language along with the Complainant's signature.

Decision: The Commission accepted counsel's recommendation.

23. 2020006851

Opened: 1/27/2020

First Licensed: 3/7/2008

Expires: 3/6/2020

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant states that they had a contract on a home that Respondent listed. Complainant alleges that their home inspection indicated several issues with the home which Complainant and the homeowner were aware of prior to Complainant obtaining the home inspection. Complainant alleges that Respondent failed to disclose this information because they wanted to see if the home inspection would reveal the issues.

Respondent filed a response stating that unbeknownst to them, their client (Sellers) hired a handyman prior to the home inspection to look at the home and make sure that there were no issues that would come up in during the home inspection. The handyman informed the Sellers of possible issues with the property and made some repairs. The Sellers did not disclose the information to the Complainant because they were not sure if this was actually an issue so they wanted to wait until a licensed home inspector inspected the home. The Seller did not inform Respondent of this until after the home inspection was complete. Respondent states that the Seller felt bad because the Complainant had to spend \$700 on the home inspection so they paid them back \$350 (half the inspection cost).

Complainant filed a rebuttal stating that they have text messages proving that Respondent knew about the issues with the house prior to the home inspection. Complainant attached copies of the text messages between Respondent and Complainant's real estate agent.

Recommendation: Dismiss. Counsel reviewed the supporting text messages and they do not provide substantiating proof that the Respondent knew about the issues with the home prior to the home inspection.

Decision: The Commission accepted counsel's recommendation.

24. 2020008251

Opened: 1/30/2020

First Licensed: 11/20/2015

Expires: 11/19/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent listed a foreclosed property without disclosing that there is no water meter for the house even though Respondent is aware of this. Complainant alleges that Respondent is also aware that there is no road frontage to put a meter in, but Respondent is informing people that they can put a meter on Complainant's or their neighbor's property. Complainant states that there are no easements for a meter or water line. Complainant further states that the Respondent informed a bidder of the amount of all the other bids.

Respondent filed a response stating that they held an open house in which they verbally informed all potential buyers that the home had no water service and that a water tap line would have to be installed. Respondent states that all potential buyers and agents were required to sign a hold harmless disclosure. Respondent states that they informed potential buyers that they would need to obtain an easement from a neighboring property owner. Respondent denies that they disclosed any bid amounts to any potential buyers. The only information Respondent revealed is that they were in "highest and best" and that there were multiple offers over the list price. Respondent attached emails from the water company and the multiple offer disclosure form.

Respondent's Principal Broker filed a response stating that they were the co-listing agent for the property at issue. At the time that they first visited the property it was occupied by Complainant's child who was also the individual who foreclosed on the property. After contacting the water company they were informed that the property had no water service to be transferred and no meter attached to the property. Due to the condition of the property, the client instructed that the listing agent must be present for all showings. Respondent held an open house so that the property could be viewed by all interested parties. All potential buyers and agents were required to execute a "hold harmless" disclosure and verbally informed that there was no water service to the property and that a water tap line would have to be installed. Respondent did disclose that an easement would need to be obtained from the neighboring property. All adverse facts were disclosed by Respondent.

Complainant filed a rebuttal stating that they spoke to Respondent and informed them that they would not grant an easement for the waterline. Complainant states that the issue with the waterline should have been listed in the advertisement. Complainant further states that the email from the water company is dated after the open house so there is no way that Respondent informed individuals about the waterline issue. The Respondent's MLS listing indicated that the property had city water and that there are no disclosures.

Recommendation: Dismiss. Counsel reviewed the attached documents. The emails from the water company are dated back to December, which was before the open house.

Decision: The Commission accepted counsel's recommendation.

25. 2020007941

Opened: 1/30/2020

First Licensed: 3/26/2003

Expires: 10/15/2021

Type of License: Real Estate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker. Complainant alleges that Respondent left their client and various others in Complainant's house unaccompanied for an unspecified amount of time. Complainant states that they came home to find Complainant's client sitting on Complainant's couch with their feet up. Complainant confronted the Respondent when they returned. Respondent later threatened to pull the sale because of Complainant's reaction.

Respondent filed a response stating that their clients (Buyers) entered a contract for the purchase of Complainant's property on December 4, 2019 with the closing date scheduled for January 17, 2020. As part of the purchase, the Buyers began to set up inspection of the property, then requested pre-closing access to arrange for the decorator and painter. When Respondent arrived to the property, Complainant was in the bedroom while the Buyers walked around the house and received estimates from the painters. Complainant stated that they would remain in the home while the Buyers and the painters were there. Respondent left the property to go around the corner to turn on the lights for another property. While Respondent was gone Complainant asked where they went and was told that Respondent went to run an errand. The Buyers texted Respondent to inform them that the Complainant was angry that they left. Respondent returned immediately and Complainant started to complain about how many visits the Buyers had to the property prior to closing. Respondent advised that there had been no objections to the visits that they were aware of and apologized for the miscommunication. The Complainant remained unsatisfied and made harsh comments to Respondent. Respondent offered to leave the property with the Buyers, but Complainant stated that they would allow the visit to continue, but they needed to finish up soon. After they finished at the property, the Buyers advised that they were getting cold feet about the purchase due to Complainant's actions.

Complainant's Principal Broker filed a response stating that Respondent's conduct was above reproach and the complaint is unjustified. The Principal Broker states that they have adequately supervised Respondent and they do not believe that Respondent violated any rules or statutes promulgated by the Tennessee Brokers' Act.

Recommendation: Dismiss. The Respondent had permission to enter the Complainant's property and conduct multiple walkthroughs.

Decision: The Commission accepted counsel's recommendation.

26. 2020009691

Opened: 2/6/2020

First Licensed: 9/17/2010

Expires: 9/16/2020

Type of License: Principal Broker

History: None

Complainant is an out-of-state resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent made “snarky” comments to their real estate licensee. Complainant also alleges that they do not believe the Respondent presented their offer to the Sellers that was sent on January 30, 2020. Complainant sent another offer to Respondent on February 3, 2020. Respondent replied that the home was under contract, but the MLS did not show that the property was pending.

Respondent filed a response via their attorney. Respondent states that they provided all offers to their client in a timely and professional manner. All communications regarding the transaction were professional and courteous. Respondent denies making “snarky” comments to the Complainant’s real estate licensee. Respondent attached the purchase and sale agreement on the property; communications between Respondent and Complainant’s licensee; and the MLS listing.

Complainant filed a rebuttal stating that the Respondent did not send a formal rejection and that the property was still active on the MLS on February 3, 2020. Complainant maintains that Respondent did not present their offer to the Sellers. Complainant also states that Respondent contacted their licensee after the complaint was filed to intimidate them.

Recommendation: Dismiss. The correspondence between Respondent and the Complainant’s licensee indicate that the Respondent communicated that the Complainant’s initial offer was rejected and that there was a purchase and sale agreement in place on February 3, 2020.

Decision: The Commission accepted counsel’s recommendation.

27. 2020010101

Opened: 2/7/2020

First Licensed: 4/4/2018

Expires: N/A

Type of License: Time Share Exempt

History: 2015 Consent Order with \$1,000 civil penalty for failure to provide a copy of the public offering statement

Complainant is a Tennessee resident. Respondent is a registered timeshare resort.

Complainant states that they attended a timeshare presentation. The presentation was intense and high-pressured. Complainant alleges that Respondent sold them a timeshare interest in the wrong location and did not provide them with the promised interest rate. Complainant reached out to

rescind the contract twenty days after they entered the contract. Complainant states that the phone number provided by the Respondent was not a valid number.

Respondent filed a response stating that Complainant entered in a contract for a timeshare interest on December 8, 2018. They received a copy of the contract which included the appropriate disclosures and required rescission language. Respondent further states that the contract provides that Complainant may use their timeshare points at any of their sites.

Recommendation: Dismiss. The contract has the appropriate rescission language along with the Complainant's signature.

Decision: The Commission accepted counsel's recommendation.

28. 2020010461

Opened: 2/9/2020

First Licensed: 5/17/1990

Expires: 12/16/2020

Type of License: Principal Broker

History: None

Complainant is an out-of-state resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent runs a real estate school in which they allowed an individual whose license is in retirement status to teach classes.

Respondent filed a response stating that they have obtained an order of protection against Complainant and this complaint was filed against them because Complainant wants control over Respondent's ex-spouse's finances since the ex-spouse's stroke. Respondent attached a copy of the order of protection obtained against Complainant.

Complainant filed a rebuttal stating that Respondent did allow an employee to work in their real estate school with an expired license. Complainant contends that Respondent is unethical and manages money inappropriately.

Recommendation: Dismiss. Complainant provided no corroborating evidence to support their claims.

Decision: The Commission accepted counsel's recommendation.

29. 2020010851

Opened: 2/10/2020

First Licensed: 10/30/1996

Expires: 11/21/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that they signed a purchase and sale agreement on November 21, 2019 for a property. Complainant attempted to obtain homeowner's insurance for the property, but due to a prior severe hailstorm the insurance company needed proof that the damage was paid for the property. Complainant relayed this information to Respondent. The Respondent conveyed this to the Seller who stated that there was nothing wrong with the roof so they would not replace it. Respondent then found an agent who would write insurance. The hailstorm damage was not on the Seller's disclosure, neither was it in the initial disclosure or final documents. Complainant states that the property they entered a purchase agreement to own is located in a secluded cul-de-sac. The Seller of the property owned all remaining lots. Complainant alleges that it was their intention to buy the lot next to the one they had already entered a purchase agreement to own. Complainant states that the lots were not listed with an agent so they intended to talk with the Seller at closing about acquiring the property. The Seller was not at the closing. During Complainant's walkthrough there were no signs on the neighboring property to indicate that they were sold. After the walkthrough, the Respondent removed their sign from Complainant's property and put them on the neighboring lots. Complainant looked up the lots and discovered that they were listed on January 3, 2020 and under contract on January 5, 2020. Complainant states that there was no reason to put a for sale sign on lots that were already sold other than to deceive them. Complainant states that they were still on the fence about the roof claim for the property they had a contract on and the Respondent's failure to disclose the lots were for sale and sold took away their ability to reconsider their purchase before closing. Complainant believes that the non-disclosure of the lots being sold was intentional to not jeopardize the sale of the house.

Respondent filed a response stating that neither the Seller nor the Respondent were aware that the Complainant was interested in purchasing any additional lots. Respondent further states that during the final walkthrough on January 15, 2020, the Complainant did not inquire about the purchase of any additional lots. Respondent states that the listing agreements for the other surrounding lots were signed on December 27, 2019 and placed on the MLS on December 30, 2019. Because of a typo, three of the five lots expired on December 31, 2019. Once the error was discovered the listings were immediately returned to active status on January 3, 2020. The lots went under contract on January 4, 2020 and placed in "pending" status on January 5, 2020. Respondent states that the yard signs were installed on December 28, 2019 and remained until closing on January 21, 2020. Respondent states that they never had a thought to deceive Complainant. With respect to the roof issue, the Respondent states the Complainant knew about the proper insurance claim prior to the home inspection was performed. The Seller had a roofer come to examine the roof and they assessed that there was no damage and did not advise the Seller to replace the roof. Further, the Complainant's home inspection report did not mention the roof. Respondent corroborates that the initial insurance company would not insure the house, but they were able to find an insurance company that could insure the house.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

30. 2020002821

Opened: 1/13/2020

First Licensed: 12/1/2015
Expires: 11/30/2021
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that they purchased a lot and the purchase price included the price of the lot and the house to be built on it. The listing stated that the lot size was 13,068 square feet. Complainant signed the contract on April 12, 2019 and closed on the property on June 28, 2019. After the closing, Complainant found out that the lot size was only 8,220 square feet. Complainant alleges that the lot size was misrepresented. Complainant states that they did not have a survey conducted because they were told they would get a copy of the survey at closing.

Respondent's Principal Broker filed a response stating that there was no misrepresentation intended. The licensee acted in good faith. They received information from the builder/seller who provided the lot sizes because there were no readily available records since the community was newly established. Respondent's broker

Complainant filed a rebuttal stating after closing they went to the assessor's office and received a copy of the plot. This is how they confirmed that the square footage was incorrect. Complainant attached a copy of the plot and the original listing.

Recommendation: Letter of Warning regarding reasonable skill and care.

Decision: The Commission voted to issue a consent order with a \$1,000.00 civil penalty for failure to exercise reasonable skill and care and a four (4) hour continuing education course in Contracts to be completed within 180 days above and beyond what is required for licensure.

31. 2019103091
Opened: 12/31/2019
First Licensed: 6/15/2016
Expires: 6/14/2020
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that they made an offer on the property listed by the Respondent. Complainant offered \$153,000 with seller-paid concessions. The offer was countered and signed by the Seller for \$155,000 with no seller-paid concessions. Complainant states that they verbally agreed to the counter and waited to receive the document so they could sign it. Complainant then received a call later that day in which the Respondent stated that they made a mistake and that the listing was for \$165,000 rather than \$155,000 and they are taking another offer. Complainant alleges that the listing agent received another offer for \$165,000 and wanted to take that offer

because it would give the Respondent a bigger commission. Complainant attached a copy of the offer and counteroffer.

Respondent filed a response stating that due to a typo, the listing was posted as “coming soon” at \$155,000 instead of \$165,000. An offer was received for \$153,000 with seller-paid concessions. Respondent notified the Seller of the offer and agreed to counteroffer at what was believed to be “full price” (\$155,000). Shortly after, the Seller called and directed Respondent to withdraw the counteroffer, which Respondent did. Respondent attached a copy of the email from the Seller requesting that Respondent withdraw the offer as they informed the Respondent that the home should have been listed at \$165,000. Respondent denies receiving any other offers for the property at the time the counteroffer was rescinded.

Recommendation: Letter of warning regarding reasonable skill and care.

Decision: The Commission voted to dismiss this complaint.

32. 2020005161

Opened: 1/22/2020

First Licensed: 10/18/2019

Expires: 10/17/2021

Type of License: Affiliate Broker

History: None

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that Respondent lied numerous times regarding the property. Complainant alleges that Respondent intended to direct sell this property to another individual and lied to Complainant about their intentions. Complainant states that they made an offer on the property and were promised a counteroffer in 48 hours but instead were informed that the owners accepted another offer from someone else.

Respondent filed a response stating that they listed a property and received an initial offer. The property was owned by four siblings who inherited the property from their parents. Respondent could not initiate a purchase and sale agreement for the initial Buyer until they were able to obtain all signatures from the Sellers. After obtaining all signatures, the closing on the property was scheduled for January 8, 2020. Between the time of the initial offer and early January, the Respondent received an offer from the Complainant on January 3, 2020. When Complainant made their offer the initial Buyer had a contract in place that was contingent on the results of a land survey. A couple of days after Complainant made their offer, Complainant called Respondent to follow-up on the offer Respondent’s clients then informed Respondent that they were not interested in Complainant’s offer. At this time the Respondent noticed that the MLS status was not showing as “pending” so Respondent updated the status. When Complainant noticed that the status changed they contacted Respondent. Respondent explained that the initial offer resulted in a contract that was contingent on the results of a land survey. A few days later the Complainant inquired about the land survey results and the status of their offer. At this time, Respondent was communicating with the probate attorney and the initial Buyer regarding the Sellers’ ability to close on a property that was still in probate as the Buyer was upset by this. The Buyer’s response

to the property being in probate made Respondent believe that the contract would fail. Respondent asked one of the Sellers if they wanted to entertain any other offers since it did not seem likely that the initial contract would close. The Seller stated that they would like to consider other offers, including Complainant's. Respondent met with all of the Sellers about the offers. They started to argue and could not decide whether to make the initial contract work or to entertain the other offers. They ultimately decided that they did not want to entertain Complainant's offer.

Respondent's Principal Broker filed a response stating that Respondent is a new agent and this was their first transaction. The transaction was very complicated as it involved four Sellers who were all siblings and very contentious. Respondent only did what their clients asked them to do. There were many contradictory statements from the Sellers and the misunderstandings were not Respondent's fault.

Respondent's clients also filed a statement. They all agree that Respondent did everything they asked. They admit that the siblings made it very hard for Respondent as they often provided Respondent with contradictory information. The Sellers state that Respondent was professional at all times.

Recommendation: Letter of Instruction regarding updated and accurate MLS listings.

Decision: The Commission voted to dismiss this complaint.

33. 2019096241

Opened: 11/25/2019

First Licensed: 5/11/2015

Expires: 10/7/2020

Type of License: Principal Broker

History: None

Complainant is a real estate licensee. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent stole money from their escrow account by writing checks to themselves that were to remain in the escrow account. Respondent attached supporting evidence which show checks in the amount of \$1,000 and \$2,790 signed by Respondent with information in the memo line stating that the check was for petty cash, commission, and labor.

Respondent filed a response stating that the Complainant filed this complaint in retaliation to a civil lawsuit that they filed against the Complainant in Chancery court. Respondent further states that all actions they took were made at the direction of Complainant. Respondent states that Complainant instructed them to withdraw funds to pay a for work that was performed.

Complainant filed a rebuttal stating that it is true that there is a civil lawsuit between them and Respondent; however, this lawsuit is a dispute over the division of net income in a limited liability company. Complainant states that Respondent was a paid contract labor vendor for Complainant's company and wrote a check out of Complainant's real estate escrow account to Respondent. Complainant states that it took a while for them to discover the withdrawals because Respondent acted as the bookkeeper and did not reconcile. After Respondent was fired, they hired a new accountant who discovered the issue.

Recommendation: \$1,000 civil penalty per violation for trust account violations for a total of \$3,000. Respondent provided no evidence to indicate that they acted under the direction of Complainant.

Decision: The Commission voted to accept counsel's recommendation and to downgrade Respondent's licensure status to Affiliate for three (3) years after which Respondent may reapply for Principal Broker licensure status.

34. 2019098831

Opened: 12/9/2019

First Licensed: 12/16/2016

Expires: 12/15/2020

Type of License: Affiliate Broker

History: None

Complainant is a licensed Principal Broker. Respondent is a real estate licensee.

Complainant alleges that Respondent's advertisement is not in compliance with the Rules. Complainant attached a copy of the advertisement. The advertisement indicates that the Respondent's total commission is 4.5% while others charge 6%.

To date, Respondent has not filed a response.

Recommendation: \$500 civil penalty for the advertising violation. Respondent's telephone number is not the same as the number on file with the Commission. \$1,000 civil penalty for failure to respond.

Decision: The Commission accepted counsel's recommendation.

35. 2019100091

Opened: 12/11/2019

First Licensed: 3/8/2018

Expires: 3/7/2020

Type of License: Affiliate Broker - Retired

History: None

This complaint is related to 2019100051.

Complainant is a Tennessee resident. Respondent is a real estate licensee in retired status.

Complainant states that the Respondent refused to provide them with a property disclosure document. Complainant states that they contacted Respondent's office several times and did not receive a response to their requests. Complainant states that they had a right to know information about the home such as its age, whether anyone died in the home, and whether the home had been vacant.

The Respondent is in retired status and has not filed a response to date. Counsel attempted to contact Respondent but did not receive a response.

Recommendation: \$1,000 civil penalty for failure to respond.

Decision: The Commission accepted counsel's recommendation.

36. 2020000901

Opened: 1/6/2020

First Licensed: 1/12/1995

Expires: 12/25/2021

Type of License: Affiliate Broker

History: None

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that Respondent rented out their home without a lease agreement and would not provide the Complainant with information regarding the tenant. Complainant alleges that the tenant vacated the property and left significant damage to the property. Respondent has refused to provide Complainant with the security deposit.

Respondent filed a response stating that they noticed Complainant's home was listed for sale. They contacted the listing agent regarding the home and inquired as to whether the Complainant had considered renting the home as they had a person who was looking to lease a house. The listing agent informed them that the home was no longer on the market and that Respondent could reach out to Complainant directly about renting the property. Respondent contacted Complainant about renting out the home. The Complainant agreed to rent the home. The tenant moved in and several issues with the home were discovered. Respondent alleges that they repaired all the issues. Respondent further admits that the rental agreement was not reduced to a writing but was instead conducted over the phone. Respondent states that they were not acting on behalf of the real estate firm they are affiliated with, but they were acting on behalf of their own personal business.

Respondent's Principal Broker filed a response stating that they have nothing to do with the rental agreement at issue. The Principal Broker states that Respondent rents long term rentals but that is Respondent's own personal business and has nothing to do with their firm.

Recommendation: \$500 civil penalty for failure to exercise reasonable skill and care and for failure to provide a contract for the rental property.

Decision: The Commission voted to issue a \$1,000.00 civil penalty and a four (4) hours of continuing education in Contracts to be completed within 180 days of the execution of the consent order. Additionally, the Commission voted to open a complaint against the Principal Broker for failure to supervise.

37. 2020001271

Opened: 1/8/2020

First Licensed: 3/10/1994

Expires: 12/10/2020

Type of License: Real Estate Firm

History: 2016 Consent Order with \$1,000 Civil Penalty for failure to respond

Complainant is an out-of-state resident. Respondent is a licensed timeshare resort.

Complainant entered a contract for a timeshare interest in Tennessee. Complainant alleges that Respondent engaged in aggressive sales tactics and misrepresentations. Complainant is requesting recovery of monies lost in the amount of \$24,133.

Respondent filed a response stating that Respondent made three purchases in connection with the timeshare interest in 2018 and 2019. Respondent states that they provided Complainant with copies of the contract which include the terms and conditions. Respondent attached a copy of the contract.

Recommendation: \$1,000 Civil Penalty. The contract rescission language indicates that the Complainant has five days from date of entry into the contract to cancel. The Rules require 10 or 15 days to cancel depending on whether there was an onsite inspection of the property.

Decision: The Commission accepted counsel's recommendation.

38. 2020004731

Opened: 1/20/2020

First Licensed: 9/27/2018

Expires: 9/26/2020

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent removed several items from their residence without permission. Respondent was the licensee for potential buyers of Complainant's property. Complainant attached pictures of items that were taken from their home.

Respondent filed a response stating their client contacted them for Respondent to show them Complainant's property. When their client arrived, they brought their adult children with them. Respondent states that the house appeared to be abandoned when they walked inside as there were several large black garbage bags and other items that appeared to be trash. Respondent admits that there were still some furnishing and small items on the countertop. Respondent's client noticed a large, glass milk jug and asked if it was ok for them to have it. Respondent said it would probably be "ok" for them to take it and carried it to their client's car. Respondent's Principal Broker contacted them the next day to ask about the items that were taken. Respondent was unaware of any items that were taken, other than the glass milk jug. Respondent reached out to their client to inquire about the missing items. Respondent's client admitted to taking items other than the glass milk jug. Respondent retrieved the items and returned them to the Complainant on January 16, 2020.

Respondent's client also filed a statement verifying that the property did look unoccupied and everything on the property appeared to be trash. Respondent's client admits that Respondent told them they could take the glass milk jug; however, Respondent did not know about the other items that were taken. Respondent's clients returned the items to respondent along with \$50 to give to the Complainant for their trouble.

Recommendation: \$500 civil penalty for failure to exercise reasonable skill and care.

Decision: The Commission voted to issue a \$1,000.00 civil penalty for failure to exercise skill and care.

39. 2020005991

Opened: 1/23/2020

First Licensed: 6/23/2011

Expires: 1/25/2018

Type of License: Vacation Lodging Service Firm

History: None

Complainant is a Tennessee resident. Respondent is a licensed VLS.

Complainant alleges that they have had several issues with Respondent since they purchased the company from the previous owners. Complainant states that they were not made aware that Respondent had acquired the prior company. Respondent informed Complainant that they needed to sign new paperwork for the new internet platform they were using to advertise the Complainant's rental property. Complainant signed the paperwork and soon realized that their property was not being rented as usual. Complainant looked into this and noticed that their rental was blocked off as unavailable on the new website platform. Complainant further alleges that Respondent conducted unnecessary maintenance of their property and overcharged them. Complainant states that they sent a letter in March 2019 requesting that Respondent remove them from their program.

To date, Respondent has not provided a response.

Recommendation: \$1,000 civil penalty for failure to respond.

Decision: The Commission accepted counsel's recommendation.

40. 2020010731

Opened: 2/10/2020

First Licensed: 8/29/2019

Expires: 8/28/2021

Type of License: Affiliate Broker

History: None

Complainant alleges that Respondent is engaging in unlicensed activity by managing rental properties without a licensed real estate firm or a valid real estate license. Complainant alleges that

Respondent has not maintained the properties properly resulting in the tenants taking responsibility for repairs.

Respondent filed a response stating that Respondent was constantly late on their rent. Complainant also failed to keep the property up as required. Respondent also alleges that Complainant stole items from the property. Respondent states that they took their real estate class in 2017 and took the national portion eight times before they passed in August of 2019. Respondent states that they have been trying to obtain their license for two years and Respondent now has their license.

Recommendation: \$1,000 civil penalty for unlicensed activity. At the time the complaint was filed Respondent was unlicensed and their property management company had no affiliation with a licensed real estate firm.

Decision: The Commission accepted counsel's recommendation.

41. 202000221

Opened: 1/2/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Exempt

History: None

Complainant is a Tennessee resident. Respondent is a registered timeshare resort.

Complainant states that they would like to cancel their timeshare interest they entered a contract with the Respondent. Complainant states that Respondent has deceived them.

Respondent filed a response stating that Complainant has been the owner of a timeshare interest since 2015 with subsequent purchases in 2016 and 2018. Respondent states that the Complainant signed and received the contract that fully disclosed the terms of the agreement.

Recommendation: Defer to next meeting. I have reached out to the Respondent for a copy of the full contract. Their offices have closed due to the coronavirus outbreak and will not be open until after the April meeting.

Decision: The Commission accepted counsel's recommendation.

RE-PRESENTS

42. 2019085751

Opened: 10/17/2019

First Licensed: 11/7/2016

Expires: 11/6/2020

Type of License: Affiliate Broker

History: None

Complainant is an anonymous individual. Respondent is a real estate licensee.

Complainant states that Respondent advertises their listings as “coming soon” before they are active. Respondent does not allow other agents to show the properties and are able to get their own listings under contract before the public sees them.

Respondent filed a response stating that they did not violate any rules by posting properties as “coming soon” listings. Respondent states that majority of the homes that sold before they were officially on the market were homes they were renovating and staging. Respondent states that they have a large social media following and posts the process of renovations so people are able to see the progress of the home.

Respondent filed a supplemental response via their attorney stating Respondent and their spouse (who is also a licensee) work directly with Sellers who are in the process of renovating their properties prior to putting them on the market. Respondent posted video updates on Facebook throughout the renovation process to create interest in the properties. Because of Respondent’s social media following they are often contacted directly by real estate agents prior to the properties being listed on the MLS. The agents contact Respondent either to request a showing, inquire about other properties or to ask if Respondent has any upcoming or current properties in a specific price range. Respondent states that the allegations are untrue as they have not advertised a property without the authorization and consent of their client.

Recommendation: Dismiss. Licensees are allowed to post listings as “coming soon.” Respondent also had permission to post the home renovation process prior to listing the property on the MLS.

New Information: Counsel requested a copy of the listing agreements for the homes that were posted on Facebook as “coming soon”. The date on the listing agreement matches the date the advertisement was posted on Facebook.

New Recommendation: Dismiss.

Decision: The Commission accepted counsel’s recommendation.

43. 2019086951

Opened: 10/22/2019

First Licensed: 5/15/2017

Expires: 5/14/2021

Type of License: Real Estate Agent – Time Share Salesperson

History: None

Complainant is a Tennessee resident. Respondent is a licensed timeshare salesperson.

Complainant alleges that Respondent is an abusive person. Complainant alleges that Respondent physically choked them and broke the neighbor’s neck. Respondent was charged with two counts of aggravated domestic assault. Complainant alleges that Respondent was fired from their timeshare resort employer for selling drugs on the property.

This complaint was sent out for investigation. We obtained the Sheriff's report, which indicate that aggravated assault charges were filed against Respondent due to an assault incident which resulted in one victim being hospitalized. Respondent appeared before a grand jury in December 2019.

Recommendation: Discuss. It is possible that this Respondent may be convicted of a felony and therefore required to report the felony conviction. I recommend that we hold this in abeyance until the conclusion of the criminal case. I have attempted to contact the Respondent for an update, but the Respondent's phone gives a busy signal each time I have tried to make contact.

Decision: The complaint is deferred to the April meeting.

New Information: Counsel contacted the Sheriff's department regarding the Respondent. The Respondent has been arrested on four separate occasions for aggravated assault. None have led to convictions; however, the current assault that is the subject of the complaint is still in process and the Respondent has not been to trial. The Respondent is currently out on bail. The Sheriff's department was unsure of their next scheduled court date.

New Recommendation: Dismiss. Although Respondent's charges are criminal, the alleged offense does not give the Commission grounds to discipline. T.C.A. § 62-13-312(f) provides that the offense must be an enumerated offense or related to an enumerated offense. In addition, there must be a conviction as it relates to the offense. This complaint does not meet the statutory requirements for discipline.

Decision: The Commission accepted counsel's recommendation.

ANNA MATLOCK

44. 2019096221

Opened: 11/27/2019

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration - Exempt

History: None

Complainants are timeshare owners and Respondent is a timeshare company. Complainants would like their contract cancelled because they allege, they were misled into purchasing the timeshare on the belief that they would be able to take a full paid vacation to Switzerland, and that their existing travel expenses would be covered by Respondent every year. Complainants allege they were lied to by sales representatives in order to purchase the timeshare.

Respondent answered the complaint stating a closing was conducted where a member of Respondent's team reviewed the details of the purchase and sale agreement and all other contracts. According to Respondent's records they have no record of Complainants contacting them regarding issues accessing their online account or being able to obtain service during their rescission period. Respondent states all their documents, disclosures, and procedures are compliant with the rules and regulations. Based on the above information, Counsel finds no violations of the rules and statutes as Complainants did not rescind their contract during the rescission period.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

45. 2019097401

Opened: 12/3/2019

First Licensed: 9/29/2009

Expires: 9/28/2021

Type of License: Real Estate Firm

History: None

Complainant is a timeshare owner. Respondent is a licensed timeshare company. Complainant states they visited location and had difficulty with lodging and were able to secure the proper lodging after attending a member update. Complainant alleges they were informed their fees would change, but they would receive more accommodations and services. Complainant now states their income to debt ratio is very high and they are suffering financially. Complainant alleges Respondent lied to them and it's difficult to even visit the location.

Respondent answered the complaint stating Complainant was advised multiple times of the requirements of the contract, points, and availability. Respondent also states that Complainant duly signed the purchase and sale documents on more than one occasion, was properly advised of all the details, and did not contact Respondent during the rescission period. Respondent states they have thoroughly reviewed Complainant's allegations and finds them without merit and contract to the document executed. Based on the information provided by Complainant and Respondent, Counsel finds no violation of the rules and statutes. Furthermore, Complainant failed to rescind their contract within the rescission period.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

46. 2019099251

Opened: 12/10/2019

First Licensed: 12/19/2014

Expires: 12/18/2020

Type of License: Real Estate Broker

History: None

Complainants are out of state residents. Respondent is a licensed principal broker of the selling agent. Complainants state they went to view a few properties out of state and agreed to present a strong offer to the sellers even though they were under contract. Complainants alleged they offered the full listing price and then eventually agreed to pay more and waive their inspection period. Complainants state they were then notified the sellers were moving forward with their contract and paid the appraisal fee and provided their earnest money. Complainants allege the requested proof that they could afford the property was not provided timely. Complainants state they were told by their agent that the selling agent was now considering the other contract. Complainants are concerned of losing their property, time, and money.

Respondent answered the complaint stating the property was listed with a cash offer and a contingency to sell property in another state was presented with a Buyer's First Right of Refusal negotiated and attached to the contract. Respondent states Complainants contract included an addendum that stated "the contract is accepted subject to the prior rights of purchasers...of a first right of refusal with 3 working days. Seller retains the right to agree to changes in the terms of their contractual agreement with the first contract holders." Respondent states the first right of refusal was exercised, all contingencies were waived, and Complainants' agent was notified immediately. Further, Respondent states they contact their legal counsel and was affirmed the primary contract was valid and binding. This decision was communicated to the cooperating brokers. Based on the information provided by Complainants and Respondent, and the fact Complainants signed the Right of First Refusal Addendum, Counsel recommends this matter be dismissed as Respondent violated none of the rules or statutes.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

47. 2019100381

Opened: 12/15/2019

First Licensed: 7/10/2007

Expires: 7/9/2015

Type of License: Time Share Registration, EXPIRED

History: None

Complainant is an out of state resident. Respondent is an expired time share registration. Complainant alleges Respondent continues to send billing statements for a timeshare contract that was cancelled via a "Notice of Cancellation" they drafted on November 21, 2016.

Respondent did not provide a response. As Respondent's license has been expired for five (5) years. Furthermore, Counsel believes based on the information provided, that this is a contractual dispute and outside of the Commission's jurisdiction. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

48. 2019100411

Opened: 12/16/2019

First Licensed: 6/13/2007

Expires: 6/12/2021

Type of License: Affiliate Broker

History: None

Complainant is anonymous. Respondent is a licensed affiliate broker. Complainant alleges Respondent and their spouse, Respondent in 2019100421, made offensive comments on social media and that as a member of the real estate community they are held to a high ethical standard to treat everyone in the community without malice. Additionally, Complainant states Respondent uses their personal social media page to do real estate without providing their license number or firm affiliation. Complainant states these comments may cause others to perceive the real estate community as intolerant or an unsafe place.

Respondent answered the complaint stating they have two separate social media pages and one is a personal page and the second is a business page. Respondent states they do not use their business page to display their personal opinions as that would be inappropriate. Respondent also denies using their personal page to advertise their business. Respondent states they have never treated any of their clients differently and they have a good reputation. Respondent provided images to support their two different real estate pages.

Complainant failed to provide any evidence to support their claim against Respondent and Counsel has no way of contacting Complainant as they are anonymous. Furthermore, Counsel believes this matter falls outside of the jurisdiction of the Commission. Nonetheless, Counsel recommends this matter be dismissed as Respondent has not violated any of the rules or statutes.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

49. 2019100421

Opened: 12/16/2019

First Licensed: 8/1/2017

Expires: 7/31/2021

Type of License: Affiliate Broker

History: None

This complaint is related to 2019100411. Complainant is the same anonymous person above. Respondent is the spouse of the Respondent in the previous complaint.

Respondent answered the complaint stating they have not mistreated anyone of differing backgrounds, and it is not in their heart to do so. Respondent also notes this complaint is not against them, as it their spouse's page in question. Respondent does not believe they have violated the Code of Ethics. As previously stated in the complaint above, Counsel recommends this matter be

dismissed for lack of information from complainant, that this matter is outside of the Commission's jurisdiction, and no rules and statutes and have been violated.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

50. 2019100441

Opened: 12/16/2019

First Licensed: 10/23/2018

Expires: 10/22/2020

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges that following a showing conducted by Respondent that an item of clothing was missing. Complainant states they have video footage which also shows "suspicious activity" but cannot show Respondent leaving with the clothing. Complainant alleges when initially confronted Respondent agreed to cooperate. However, once Complainant involved the police, Respondent changed their decision.

Respondent answered the complaint stating the showing lasted approximately thirty (30) minutes. Respondent states later they were contacted by another agent stating that after they left, someone went inside the property and stole something. Respondent then details how they interacted with Complainant several times concerning the incident and ultimately in the police incident report that Complainant did not provide video of any suspect removing their clothing.

Respondent's principal broker also provided a response stating they have questioned their agent and informed Complainant they are welcome to provide them with a copy of the video to review. Respondent's principal broker did not receive a copy of the video, nor have they received any follow-up regarding this matter. Complainant provided a rebuttal refuting much of Respondent's response.

Based on the information provided, Counsel does not believe that this matter falls within the jurisdiction of the Commission. Furthermore, there is no litigation pending and it is outside of Counsel's jurisdiction to make potentially criminal determinations. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

51. 2019102731

Opened: 12/27/2019

First Licensed: 9/29/2009

Expires: 9/28/2021

Type of License: Real Estate Firm

History: None

Complainant is an out of state resident. Respondent is a licensed timeshare company. Complainant allege they have been subject to high pressure sales tactics from Respondent for three (3) years. Complainant states they have owned timeshares since 1987 and have attended the mandatory owner updates. Complainant has serious medical conditions and that sitting for the yearly hour owner update causes is extremely painful, but they have done it yearly. Complainant believes throughout the years they have been subjected to long meetings and have been lied to several times. Complainant is requesting to be reimbursed for all the fees they have had to pay in our attempt to refinance their mortgage and other fees to be released form this contract.

Respondent answered the complaint stating Complainant's ownership portfolio began in 2005 and since that time Complainant has entered three (3) additional purchase transactions with their prior developer. Respondent states that all sales presentations are voluntary and not mandatory. Respondent also denies engaging in high pressure sales tactics during their ownership presentations to individuals. Respondent states that Complainant has used over one million club points and additionally have access to a personal vacation counselor. Respondent also denies that they failed to disclose the rescission period to Complainant as this is provided in all their contracts, including the ones singed by Complainant. Based upon the foregoing information and the fact that Complainant did not exercise their right to rescind the contract, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

52. 2019101211

Opened: 12/18/2019

First Licensed: 11/7/2016

Expires: 11/6/2020

Type of License: Affiliate Broker

History: None

Complainant is anonymous. Respondent is a licensed affiliate broker. Complainant alleges respondent has made five (5) separate posts on social media to get leads where they do not mention they are a licensed agent.

Respondent answered the complaint stating they are not in violation of the advertising rules, as all the marketing done from their personal page and their name, firm name, and firm telephone number are provided. Respondent provided a screenshot of their profile that contains the very same information. Therefore, Counsel finds that Respondent has not violated the advertising guidelines as the information is "one-click" away.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

53. 2019101451

Opened: 12/19/2019

First Licensed: 7/10/1991

Expires: 10/21/2020

Type of License: Principal Broker

History: None

Complainant is Tennessee resident. Respondent is a licensed principal broker. Complainant states they signed a contract to purchase a condo and then signed an extension as suggested by the lender but were turned down for the loan on November 27, 2019 due to problems with the property. Complainant states their agent requested to be reimbursed their earnest money, but the seller would not sign the release. On December 17, 2019, Complainant emailed Respondent requesting immediate disbursement of their earnest money.

Respondent answered the complaint stating the contract contained buyer's inspection and financing contingencies, including a stipulation that the buyer was to provide a conditional loan commitment by November 19, 2019 prior to seller's move-out date. The loan commitment letter was not provided timely, but verbal assurances were provided that Complainant's loan was approved. Despite assurances, Complainant requested an extension to December 2, 2019 which was agreed upon. On November 26, 2019 it was discovered the condo association master insurance policy did not have a Business Ordinance and Law Endorsement ("BOLE") or its functional equivalent. Respondent states immediate steps were taken to have the HOA update the condo insurance coverage. On November 27, 2019, Complainant stated they wanted to withdraw from the contract, Respondent informed them they could not withdraw from a valid contract. On November 30, 2019, a Mutual Release and Disbursement form was mailed by Complainant to receive their earnest money due to inability to obtain financing. However, no denial letter was attached, later on December 2, 2019 a loan denial letter was received. The seller refused to sign the mutual release stating that Complainant had not pursued the loan diligently and in good faith and made a counteroffer. The parties engaged in further back and forth negotiations concerning the sale of the home.

Ultimately, On December 26, 2019 the checks were mailed to each party and on January 3, 2020 Complainant confirmed receipt. Based on the information, Counsel does not find Respondent mishandled the disbursement of earnest money. Tenn. Comp. R. & Regs. 1260-02-.09(9) states that absent demonstration of a compelling reason, earnest money shall be disbursed within twenty-one (21) days. Here, it appears Respondent had a compelling reason to delay the release of the earnest money. The earnest money has been disbursed at this time. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

54. 2019102151

Opened: 12/24/2019

First Licensed: 4/26/2017

Expires: 4/25/2021
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant states they purchased a rental property from Respondent who is both the seller agent and the seller. The property closed on December 18, 2019, documents were signed, and funds were dispersed that day. Complainant states according to the contract that buyer takes possession of the property at closing, but as of December 24, 2019, they had yet to receive the keys to the home and they have been unable to communicate with Respondent.

Respondent answered the complaint stating funds were not wired until December 20, 2019, which is when the key swap was made between Respondent attorney and Complainant's attorney. Respondent states once they were informed the keys had not been received, they contacted their attorney and were informed that the keys were indeed transferred. Respondent's principal broker submitted a response confirming the timeline of events. As the keys have now been returned, and Complainant failed to mention the funds were not wired timely, Counsel recommends this matter be dismissed as Respondent has not violated any of the rules and statutes.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

55. 2019102681
Opened: 12/27/2019
First Licensed: 8/7/2017
Expires: 8/6/2021
Type of License: Affiliate Broker
History: None

Complainants are out of state residents. Respondent is a licensed affiliate broker. Complainants state Respondent and their spouse purchased a portion of the property for which they are on a quit claim deed for and their spouse has a promissory note for legal proceeds the sale of this land. Complainants state they were never included on the listing, nor did they receive any money from the land. Complainants state their child entered a listing contract with Respondent without including them. Complainants contacted Respondent to inform them of their ownership interest and eventually, repairs were made, and they were told they would receive their portion of the proceeds. Complainants allege Respondent lowed the price of their own listing with the intent to purchase it; and has used this all for their personal gain. Complainants allege Respondent misrepresented information to them and failed to put them on the listing contract or offer to purchase when they had an ownership interest. Complainants allege several various rules and statutes that Respondent has violated during the transaction.

Respondent answered the complaint stating they listed the property for sale and states Complainants were never owners of the property. Respondent states there is no record or legal instrument that showed Complainants as owners of the property, a claim that was supported by the

title company. Respondent states they conducted an extensive title search with many attorneys, and it was determined Complainants did not have legal right to the property. Respondent also refutes the claim they intentionally lowered the listing price and all parties to the transaction agreed to the listing price. Respondent denies all allegations of the Complainants and states the transaction has closed. Respondent provided a copy of the transaction files. It appears to Counsel that this matter most likely does not fall within the jurisdiction of the Commission. From the documents provided, it appears the crux of the issue is who is the lawful owner of the property, a determination for the Court, not the Commission. Respondent states attorneys and title companies determined Complainants were not owners. Based on the information, this appears to be more of a contractual dispute. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

56. 2019103101

Opened: 12/31/2019

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Exempt

History: None

Complainant is an out of state resident. Respondent is a timeshare company. Complainant alleges they were pressured into upgrading their timeshare purchase. Complainant states Respondent is harassing them with billing statements and phone calls and have sent two (2) cease and desist letters. Complainant states one of Respondent's representatives made several promises to Complainant that were later proved to be false. Complainant requests for their timeshare contract to be cancelled.

Respondent answered the complaint stating Complainant has been a customer since 2017 when they entered a contract for membership. Respondent states that in April 2018, Complainant upgraded their membership and signed and received several documents detailing their contract, including "Enrollment Agreement and Enrollment Terms and Conditions," "Buyer's Acknowledgment," and "Ownership Review." Respondent states they have reviewed the claims by Complainant and have not found any information to substantiate it. Based on the information provided by Complainant and Respondent, Counsel finds that Respondent has not violated any of the rules and statutes. Additionally, Complainant failed to rescind their contract within the rescission period.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

57. 2020000101

Opened: 1/2/2020

First Licensed: 2/18/2005

Expires: 10/30/2021
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges that in August 2019 they were informed that a drone was flying over their property and noticed an individual in their tree line. Complainant states Respondent informed them they were taking pictures of a house and flew the drone over their property to get better pictures. Complainant believes their privacy was violated, Respondent trespassed on their property, took pictures to share with potential buyers, and did not have their consent.

Respondent answered the complaint stating they stayed within the bounds of the subject property and did not veer into the tree line between the two (2) properties and did not step on Complainant's property. Respondent states they did not take pictures of Complainant's property, nor did they take pictures of neighboring properties in the area. Respondent denies all allegations and provided Counsel all of the images taken by their drone. Based on the information provided by Complainant and Respondent, Counsel finds that Respondent violated none of the rules and statutes promulgated. Furthermore, the Commission does not have jurisdiction over trespassory issues. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

58. 2020000401
Opened: 1/2/2020
First Licensed: 9/8/2016
Expires: 9/7/2020
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant states two (2) days before closing they were informed that the property was not going to close due to an issue with the buyer's financing. Eventually, the sale fell through again due to financing because of the type of home. Complainant then alleges Respondent acted very unprofessional during the process and difficult. Complainant believes since they had to do substantial work with figuring out what type of loan was necessary; they are entitled to a discount.

Respondent answered the complaint detailing the many steps they took to assist and communicate with Complainant throughout the transaction. Respondent states they often checked on the loan process and were in contact with the lender. Respondent states they tried on several occasions to contact the buyer's agent and encountered communication difficulties, but informed Complainant of the information once they were in receipt of it. Respondent states the decision of the lenders regarding financing was mostly out of their control, but they worked to mitigate the situation. Complainant submitted a rebuttal refuting many of Respondent's claims and reiterates their allegations of Respondent's lack of professionalism. Based on the information provided by both

parties, Counsel finds no evidence to support that Respondent violated any of the rules and statutes and therefore recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

59. 2020002191

Opened: 1/10/2020

First Licensed: 10/26/2004

Expires: 10/19/2020

Type of License: Real Estate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker and agent of Complainant. Complainant alleges Respondent willfully misrepresented a contract and used a due diligence clause entered into a special stipulation portion of the contract in order to present a contract to the buyer that they could easily walk away from. Complainant states ten (10) days after signing the buyer's agent stated they were withdrawing from the contract. Complainant states the predatory buyer purchases homes at below market prices and rents them out and Respondent is assisting this buyer.

Respondent answered the complaint with a timeline of the transaction and the file. Respondent states they received a cash offer in December of 2019. There were later amendments, a home inspection, and disclosures. Respondent states the buyers requested a reduced price due to the inspection and feasibility disclosure within the inspection deadline and Complainant declined. Respondent states they fully represented their client and had no knowledge of buyer's intent to not remove the inspection contingency and try to negotiate price days before closing. Based on the information provided by Complainant and Respondent, Counsel finds no evidence to support Complainant's assertions and no violations of the rules and statutes and therefore recommends dismissal.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

60. 2020002641

Opened: 1/12/2020

First Licensed: 4/3/2014

Expires: 4/2/2021

Type of License: Time Share Registration

History: None

Complainant is an out of state resident and timeshare owner. Respondent is a licensed timeshare registration. Complainant states that they have tried for several years to cancel their contract and their maintenance fees continue to increase. Complainant also details difficulties with utilizing the property and are suffering from medical ailments.

Respondent answered the complaint stating they have responded to Complainant several times concerning their request to be released from the contract. Respondent further states they cannot accept mutual releases or deed back of units. Respondent has declined to terminate the contract. As Complainant places the date of the incident in 1987, or even including the ten years subsequently, Counsel finds this complaint is outside of the two (2) year statute of limitations and recommends this complaint be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

61. 2020003271

Opened: 1/14/2020

First Licensed: 5/13/2010

Expires: 5/12/2020

Type of License: Affiliate Broker

History: None

Complainant is a licensee and seller. Respondent is a licensed affiliate broker. Complainant states on December 30, 2019 they entered into a binding contract with a buyer and their agent. On December 31, 2019, Complainant received a phone call from Respondent inquiring about their listing and that their relative put a contract on the home. Respondent then began to question Complainant about the loan process, the FHA inspection, Property Disclosure, and that their relative was willing to forgo the inspection to get the home. Complainant then states on January 6, 2020 when Respondent's relative's earnest money was due, they received a call stating the buyer did not want to move forward with the purchase. Complainant believes that Respondent is interfering with their existing binding contract.

Respondent answered the complaint stating they had nothing to do with the buyer's decision to withdraw from the contract. Respondent states they informed the buyer they could not assist them unless they obtain release from their current broker. Respondent does admit to contacting Complainant asking about financing. Respondent states they meant no harm and did not want to be buyer's agent. Respondent then states they were later contacted by the buyer informing them the buyer had released their agent. Respondent then agreed to a fifty (50) – fifty (50) referral agreement with buyer's former agent and provided a copy. Respondent states they did not inform the buyer to withdraw and all of this occurred within twenty-four (24) to forty-eight (48) hours and are willing to resolve this issue. Complainant has provided no evidence to support that Respondent interfered with the contract, as the buyer had already released their agent from the contract. Counsel also notes that the Commission does not have jurisdiction over ethical issues that may have arisen in this complaint. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

62. 2020003411

Opened: 1/14/2020

First Licensed: 2/17/2012

Expires: 3/9/2017

Type of License: Real Estate Firm

History: None

Complainant is an out of state resident. Respondent is a licensed real estate firm. Complainant states they owned a rental property managed by Respondent. Complainant sold the rental and states two (2) days prior to closing, that the buyer's agent and their property manager wanted them to sign over their management contract to a home they did not own to protect the buyer's financing. Complainant states their agent refused their request. As of the date of this complaint, the rents are still in Complainant's account in Respondent's online portal. Complainant states the new resident has not received any rents since November.

Respondent answered the complaint stating they had a property management agreement in place with Complainant until November 1, 2019 and had a new owner sign a property management agreement cover the existing tenants lease to January 21, 2020. Respondent then states the tenants rent came in as due in November 2019 and was deposited into Complainant's account. Complainant states one the money was received, it was deposited into the new owner's account and Complainant will receive their 1099 to reflect they properly received rent in 2019, correctly. Based on the information provided, it appears that the issue has been resolved and corrected and Complainant's name has been removed from Respondent's internal system. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

63. 2020003861

Opened: 1/15/2020

First Licensed: 5/16/2011

Expires: 10/30/2020

Type of License: Principal Broker

History: None

Complainant is a licensee. Respondent is a licensed principal broker. Complainant states they left five (5) messages for Respondent over one week, as their client was interested in the property, and received a message the mailbox was full and could not take any message. In an additional attempt to contact Respondent, Complainant states they also contacted their local association and was informed Respondent would return the call but never did. Complainant states they then found out the listing in question had been withdrawn several days later after the phone calls.

Respondent states they strive to treat clients, consumers, and fellow licensees in a professional manner and have yet to receive a complaint to date from the Commission. Respondent explains the several phone calls and states that due to phone forwarding issues they missed the phone calls.

Respondent states they did not intentionally delay or refuse any phone calls and have taken steps to remediate the issues with their phone systems. Based on the information provided, Counsel notes the Commission does not have jurisdiction over ethical issues and Counsel does not believe Respondent has explicitly violated the rules and statutes. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

64. 2020003961

Opened: 1/15/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration/Exempt

History: None

Complainants are timeshare owners. Respondent is a licensed timeshare company. Complainants allege they are disputing their timeshare contract due to the goods and frauds being falsely promoted and were persuaded into purchasing their timeshare. Complainants state they are aware they signed the contract, but this decision was made under false pretenses. Complainants also allege Respondents agents falsified the information used to sell their deeded property to them.

Respondent answered the complaint denying all allegations. Respondent states Complainants entered into a contract in September 2018. Complainants signed the "Exhibit to Ownership Review Buyer's Acknowledgement" and "Quality Assurance Review" which is used to assist a purchaser in avoiding misunderstandings, these documents include written disclosures. Respondent states they are also given rescission rights. Respondent states they cannot find any information to substantiate Complainants' claims. Complainants' submitted a rebuttal refuting all of Respondent's claims and would like cancellation of their contract and a full refund. Complainants signed the contract and did not rescind the contract within the rescission period. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

65. 2020003991

Opened: 1/16/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration/Exempt

History: None

Complainants are timeshare owners. Respondent is a licensed timeshare company. On a letter dated November 11, 2019 Complainants state they are exercising their "nonwaivable right to

cancel” they contract signed on November 4, 2019. Complainants state after reading the contract they cannot afford the fees and are returning the un-activated credit cards. Complainants request cancellation pursuant to Tennessee law.

Respondent answered the complaint affirming Complainants purchased a timeshare on November 4, 2019. Respondent also received Complainants request to rescind the purchase of the contract within the rescission period and therefore a refund was issued, and the contract was cancelled. Based on the information provided, Counsel finds no violations of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel’s recommendation.

66. 2020003471

Opened: 1/16/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration/Exempt

History: None

Complainant is a timeshare owner. Respondent is a licensed timeshare company. Complainant states they believed they were scammed and tricked with down payments into purchasing a timeshare. Complainant believes they were taken advantage of do not wish to remain in their contract.

Respondent answered the complaint stating Complainant has been an owner since May 25, 2016. In 2018 they upgraded their contract and applied the equity toward the purchase of an additional contract for a membership interest in one of their properties. Respondent states Complainant has signed a copy of the “Buyer’s Acknowledgement, Ownership, Review” and “Quality Assurance Review” where rescission rights are reviewed and provided. Respondent states they have no record of complaints from Complainant and that their accounts are delinquent. Respondents provided Counsel with a copy of the signed contract documents. Complainant did not exercise their rescission rights within the time period and finds no evidence of violations of the rules or statutes and Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel’s recommendation.

67. 2020004801

Opened: 1/21/2020

First Licensed: 6/30/1995

Expires: 2/11/2021

Type of License: Real Estate Firm

History: None

Complainants are timeshare owners. Respondent is a licensed timeshare company. Complainants state they believe Respondent is conducting business unfairly and deceptively. Complainants state they have attempted to resolve this matter with Respondent but have been unsuccessful. Complainants are requesting Respondent cancel their contract and refund their money.

Respondent answered the complaint denying all of Complainants' assertions. Respondent states Complainants were presented all the purchase and sale documents which included rescission rights for cancellation. Respondent states they have contacted Complainants and informed them that their ownership is paid in full and they would be happy to discuss potential resolutions if they decide to speak by telephone. Respondent provided Counsel with the transaction documents. Since Complainants did not exercise their rescission rights during the statutory time period. Counsel finds not evidence Respondent violated any of the rules or regulations and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

68. 2020004831

Opened: 1/21/2020

First Licensed: 6/19/2017

Expires: 6/18/2021

Type of License: Affiliate Broker

History: None

Complainant is a licensed affiliate broker. Respondent is also a licensed affiliate broker. Complainant states they submitted an offer on behalf of their client on 1/20/2020 to Respondent and had communicated before they were putting together an offer. Complainant states they never contacted by Respondent. On 1/21/2020 the property was listed under contract and according to the MLS it was listed under contract on the previous day, 1/20/2020. Complainant states Respondent never communicated they had multiple offers, nor did they receive a multiple offers disclosure. Complainant believes their offer was never presented to Respondent's clients.

Respondent answered the complaint through their principal broker. Respondent's principal broker states they have reviewed the file and Respondent presented Complainant's offer which was significantly below listing price. The seller had already accepted another offer and rejected Complainants' client's offer. Respondent then sent Complainant the rejected offer via email. Based on the information provided by both parties, Counsel finds no violations of the rules and statutes by Respondent and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

69. 2020004971

Opened: 1/21/2020
First Licensed: 3/15/2011
Expires: 3/14/2021
Type of License: Real Estate Firm
History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate firm. Complainant states they were searching for a rental and found a sign of Respondent's. Complainant states the property was in poor condition and currently inhabited. Complainant explained their timeframe and signed a contract and placed a twelve hundred dollar (\$1,200.00) deposit after being reassured by a representative of Respondent. Complainant states they were told if the property was not ready in time then the deposit would be fully refunded. In order to help their family, move in Complainant went to the property to help clean the house and remove the property. Complainant states they were not thanked nor offered payment for their assistance. Complainant eventually found a new property and requested their deposit back but were informed by an agent of Respondent they were keeping the deposit and then their number was blocked.

Respondent answered the complaint through their principal broker. Respondent informed Complainant they were unsure if the property would be done with their timeframe, but Complainant really wanted the home. Respondent states when Complainant brought the deposit to hold, they informed Complainant that it was non-refundable if Complainant backed out through no fault of Respondent. Respondent informed Complainant they were still waiting on items for the home, but if the home could not be done Respondent would refund the deposit. Complainant replied "No need in that. We still want the house." Respondent provided Counsel a copy of the text messages between the parties. On December 30th, Complainant visited home and informed Respondent everything looked good. On January 1, 2020 Complainant informed Respondent, they could not afford the home and backed out. Based on the information provided by both parties, including the message that Complainant stated they did not require the refund, Counsel finds Respondent has violated none of the rules and statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

70. 2020005151

Opened: 1/22/2020
First Licensed: 7/19/2012
Expires: 7/18/2020
Type of License: Principal Broker
History: None

Complainant is Tennessee resident. Respondent is a licensed principal broker. Complainant alleges Respondent cost them over twenty thousand dollars (\$20,000.00) in damages and repairs to the home they purchased through Respondent by their misrepresentation and misleading information. Complainant alleges Respondent promised them at closing they had a one (1) year warranty and the HVAC fixed in the spring of last year. Complainant states that recently their hot water heater

ruptured, and they contacted Respondent and were informed they did not have a warranty. Complainant states Respondent has not kept any of record or paperwork and cannot find them. Complainant also states Respondent has acted very unprofessional. Complainant states they were also promised that the previous owners had a warranty that would cover all damages and any issues regarding the foundation, but only covered the MasterDry. Complainant alleges Respondent has violated several rules including, preserving records for three years, willful misrepresentation, acted for more than one party in a transaction, and engaged in improper, dishonest, and fraudulent dealing.

Respondent answered the complaint stating the sale was completed on March 20, 2019. Respondent states the home was purchased and the home warranty was removed in counteroffer #1 of the agreement. Respondent states the home was inspected and the Repair/Replacement Amendment was offered to Complainant and agreed upon on 2/20/2019. Respondent states they provide their clients with warranty companies and does not recall the specifics regarding the HVAC. Respondent provided Counsel with all the transaction documents to support their statements. Based on the information provided, Counsel finds no evidence that Respondent violated any of the rules and statutes. It appears that the information at dispute was contained in the sales documents given to Complainant. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

71. 2020006131

Opened: 1/24/2020

First Licensed: 8/27/2002

Expires: 12/8/2021

Type of License: Real Estate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker. Complainant states Respondent listed their home for them and their spouse and did not include Complainant in any of the process or listing of the property. After listed, Complainant contacted Respondent asking to be informed and then they would include Complainant. Complainant states months later they were informed they need to be at closing while everyone was signing. Complainant states the settlement was incorrect and their signing was postponed, and Respondent replied to an online review Complainant posted including their personal information about them, their spouse, and the transaction.

Respondent denies disclosing any private information. Respondent states they listed the property for Respondent's spouse as only their clients' name was on the deed. Respondent states Complainant contacted them concerning their share of proceeds from the share and Respondent informed Complainant they would inform them when the property closed. Respondent states during the transaction the divorce became final and informed their client that as Complainant was not listed on the deed and it was not necessary to consult them on selling the property. The title

company informed Respondent's client that they took title as a married person and the spouse would have to sign and requested a copy of the divorce decree. As stated in the decree, the proceeds were split equally. Respondent states Complainant left defamatory social media posts that were eventually removed.

Based on the information provided, Counsel does not believe Respondent violated any of the rules and statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

72. 2020005691

Opened: 1/29/2020

First Licensed: 1/25/2013

Expires: 1/24/2021

Type of License: Time Share Registration

History: None

Complainant is a timeshare owner. Respondent is a licensed timeshare company. Complainant states they purchased their timeshare in December of 2013 and are unsatisfied with their purchase and believe Respondent has made material misrepresentations. Complainant states they have been attempting to sell their timeshare but have been unsuccessful and after six (6) years of ownership they do not want this timeshare. Complainant states they have never used their timeshare and the mortgage has been paid in full, but they still incur maintenance fees. Complainant requests Respondent to take the deed back and release them from the ownership.

Respondent answered the complaint confirming Complainant purchased their timeshare in December 2013. Respondent states Complainant has the option of selling their week back, but after review of the account they do not have any record of this. Respondent states if Complainant wants to cancel their membership, they must contact Respondent directly and their account must be in good standing to transfer ownership, and currently Complainant owes Respondent outstanding fees. As Complainant dates the incident to December 12, 2013, Counsel finds this complaint is outside of the two (2) year statute of limitations and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

73. 2020008171

Opened: 1/31/2020

First Licensed: 4/20/1999

Expires: 12/31/2020

Type of License: Time Share Registration

History: None

Complainants are timeshare owners. Respondent is a licensed timeshare company. Complainants believe Respondent intentionally deceived them to sign a contract and question their sales tactics. Complainants detail their visit to Respondent's location and their difficulties with using the timeshare. Complainants state they were not told of the rescission period or of an on-site inspection. Complainants request cancellation of their contract.

Respondent answered the complaint denying Complainants' allegations. Respondent further states that due to the delinquency on their account their contract was cancelled by purchaser default in October 2019 and reported to a credit agency pursuant to their purchase contract. Respondent provided Counsel with the purchase documents that include the proper rescission language. Based on the information provided, Complainants failed to rescind their contract and the contract has since been canceled, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

74. 2020000551

Opened: 2/3/2020

First Licensed: 3/10/1994

Expires: 12/10/2020

Type of License: Real Estate Firm 253801

History: 2017 Consent Order with a \$1000.00 civil penalty for failure to respond

Complainant is a timeshare owner. Respondent is a licensed timeshare company. Complainant states their spouse initially won a sweepstakes eventually attended a timeshare presentation. Complainant states they were subjected to a very long presentation presented with many offers and eventually purchased a timeshare. Complainant states they have never stayed at their location nor have they utilized any of Respondent's network vacation locations but did purchase an upgrade to utilize access to another timeshare location. Complainant states once they did take a vacation, there were several issues with their stay. Complainant requests to be released from their ownership and refunded their money.

Respondent answered the complaint denying all claims by Complainant and that their timeshare they purchased was misrepresented. Respondent states the sales documents adequately described the product and services and provided Complainant to the information to cancel their contract during the rescission period. Respondent states they have not received any cancellation notice during the applicable cancellation period. Respondent declines the request of Complainant. Respondent provided a Counsel a copy of the executed documents including the rescission period, that was not exercised. Therefore, Counsel finds no evidence Respondent violated any of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

75. 2020009191

Opened: 2/5/2020

First Licensed: 10/27/1995

Expires: 3/9/2021

Type of License: Principal Broker

History: None

Complainant is an out of state resident. Respondent is a licensed principal broker. Complainant states they had a friend attend a showing for a potential property. Complainant alleges they noticed a discrepancy in the square footage for the property and when they spoke to Respondent, they were already aware. Complainant believes Respondent may have listed the square footage incorrectly in order to value the property higher. Complainant then cross-referenced several listings of Respondent's with the property assessor's office and noticed that half had a higher square footage than the house contained. Complainant believes this is fraudulent misrepresentation and notes on the listings it does state "Buyer is responsible for checking square footage and acreage. Listing agency is not responsible for inaccuracies." Complainant provides three (3) examples in their complaint.

Respondent answered the complaint stating they pulled Respondent's square footage from a real estate data system, and that the listed square footage includes the porch and carport areas. Respondent states that the square footage difference was explained to Complainant's friend at the time of the showing. Respondent states if they were aware of the mistake, they would have corrected it immediately and have done so now on the MLS. Respondent further states that of the examples provided only one (1) is from their brokerage. Respondent states an agent cannot increase the value of the property when an appraisal can prove otherwise and that lenders hire appraisers to assess value. Respondent further explains that a listing agent does not typically control the asking price but can only suggest as the seller has the ultimate decision. In response to the example, Respondent states Complainant is using old information from 2018, not the current appraised value. Respondent further states they have checked all their listings and the square footage matches with the real estate data system. Respondent also states the disclaimer is frequently used in the industry.

Based on the information provided by Complainant and Respondent, Counsel cannot find evidence to support Complainant's assertion that Respondent intentionally misrepresented the square footage. Respondent has since corrected the discrepancy, which had no impact on the listing price. After review, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Decision: The Commission accepted counsel's recommendation.

76. 2019098741

Opened: 12/9/2019

First Licensed: 4/26/2017

Expires: 4/25/2021

Type of License: Affiliate Broker

History: None

Complainant is the owner of a real estate investment company. Respondent is a licensed affiliate broker and former employee of Respondent. Complainant alleges Respondent continued to use login information on their database to generate business at their new company, a competitor of Complainant. Complainant states they have documented at least seven (7) instances in which Respondent access their system, and evidence that four (4) leads were stolen from them. Complainant has filed a civil lawsuit against Respondent pertaining to the allegations contained in this complaint and in December of 2019 were granted a temporary restraining order against Respondent.

Respondent answered the complaint through their attorney. Respondent's attorney states they deny the matter asserted in the complaints and denies taking any affirmative action to continue to receive emails concerning potential property sellers. Respondent also states the Commission over the matter alleged in the complaint. Furthermore, Respondent requests should this matter not be dismissed that this be held in abeyance until the resolution of the lawsuit. Counsel confirmed with Respondent's counsel that litigation pertains to the same details alleged in the complaint. Therefore, based on the information provided, Counsel recommends this matter be placed into litigation monitoring as some of the details in the complaint appear to fall under the jurisdiction of the Commission.

Recommendation: Litigation Monitoring.

Decision: The Commission accepted counsel's recommendation.

77. 2019099281

Opened: 12/10/2019

First Licensed: 3/9/1987

Expires: 12/19/2019, EXPIRED

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is an expired affiliate broker. Complainant states Respondent and their firm were hired to manage their rental properties. Respondent has slowed payments, failed to return phone calls, charging them for frivolous services never completed, and failed to provide rents from May 2019 to September 2019. Complainant has attempted to contact Respondent to terminate their management and transfer the tenant security deposit into a designated account but has been unsuccessful. Complainant has hired an attorney to help recover their lost money.

Respondent did not provide a response. Respondent is the same Respondent that has appeared before the Commission in multiple legal reports. Since we are unable to locate Respondent and all other complaints were closed, flagged, and referred to the District Attorney, Counsel recommends the same for this complaint.

Recommendation: Close and flag and refer to the District Attorney.

Decision: The Commission accepted counsel's recommendation.

78. 2019099841

Opened: 12/12/2019

First Licensed: 1/12/2007

Expires: 5/19/2021

Type of License: Principal Broker

History: None

Complainant is a licensed principal broker. Respondent is also a licensed principal broker. Complainant alleges that their client went under contract on a property listed by Respondent. Complainant states their clients were unable to qualify for the loan prior to closing and requested an extension, Respondent refused an extension and requested an increase in the trust money deposit and make it non-refundable for seller to extend closing. Complainant's client declined the offer. Complainant states their lender's denial letter was provided to Respondent and they requested Respondent release the earnest money and they refused. Complainant alleges per the contract's loan contingency earnest money is to be returned if the loan is not approved prior to funding and if there is an earnest money dispute action must be taken within twenty-one (21) days. Complainant states they have requested Respondent several times to interplead the money with the court, but Respondent has not responded. Complainant states their client would like a written response from Respondent on why the earnest money is not being returned in accordance with the rules and regulations. Complainant provided a copy of the transaction files.

Respondent answered the complaint stating Complainant emailed them on November 25, 2019 regarding the earnest money dispute and responded on November 27, 2019. Respondent states Complainant did not mention an extension until after expiration of the contract. The contract was signed on July 27th and the closing was scheduled for August 22nd. Respondent states in the contract in the special stipulations section that the sale was contingent on the loan closing within twenty (20) days. Respondent states the loan denial letter is dated October 2nd, thirty (30) days after the expiration of the contract. Respondent states they were informed by a local association and a former broker that since Complainant did not provide a denial letter until after expiration of the contract, the seller was not entitled to the earnest money. Respondent states Complainant did not fulfill their responsibilities as an agent by not sending proper documentation in a timely manner.

Complainant provided a rebuttal stating they would like to modify their complaint to consider rules considering failure to supervise as Respondent was unaware of their agent's earnest money dispute, violation of offers to purchase by alleging Respondent's agent did not provide the signed amendment documents to their client. Complainant states the trust money holder is a title company, but the agent deposited into a separate trust account by providing a copy of the Mutual Release of Purchase and sale Agreement and Disbursement of Earnest/Trust Money, only signed by the seller.

Based on the information provided by Complainant and Respondent, it appears Complainant's client did not submit a loan denial letter to Respondent until October 2, 2019. According to the executed Purchase and Sale Agreement, closing was set for on or before August 22, 2019. The contract states under special stipulations "buyers are well qualified and using local lender-

conventional loan and can close FAST within 20 days. Buyers will pay own closing costs and pre-pays.” Complainant contacted Respondent on November 25, 2019 requesting earnest money be returned. Counsel contacted Respondent to inquire the status of the earnest money, Respondent stated the money is being held with the attorney. Tenn. Comp. R. & Regs. 1260-02-.09(9) states absent a demonstration of a compelling reason, all earnest money shall be disbursed or interpleaded within twenty-one (21) days from the date of receipt of a written request for disbursement. The earnest money request was sent on November 25, 2019 and has yet to be released or interpleaded nearly five (5) months later. Counsel believes Respondent is in violation of Tenn. Comp. R. & Regs. 1260-09-.09(9) and recommends a One Thousand Dollar (\$1,000.00) civil penalty and to either interplead or release Complainant’s earnest money.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty.

Decision: The Commission accepted counsel’s recommendation.

79. 2019100151

Opened: 12/13/2019

First Licensed: 12/9/2019

Expires: 12/8/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges Respondent is offering assignable contracts on properties and advertising to purchase properties. This information is advertised on various mediums. Complainant alleges Respondent is a licensed real estate agent and is listed as a contact person on these assignable contracts for sale. Complainant provides three (3) separate advertisement screenshots listing Respondent’s name.

Respondent’s principal broker answered the complaint stating Respondent’s license became active on December 9, 2019 and prior to this Respondent worked with a company that wholesales real estate through assigning Contracts. Respondent’s name and contact information was listed on their advertising and that the company’s advertising is set up with virtual and automatic assistants. Respondent’s contact information has now been removed from all the wholesale company’s website and it was not the intent to mislead or misinform anyone. Respondent also answered the complaint stating they have corrected the issue and have virtual assistants that make mistakes and they have corrected them since.

Complainant filed this complaint on 12/13/2019 and Respondent was licensed on 12/9/2019. Based on the screenshots provided, Counsel unable to ascertain exact dates as they only have days and times and no specific date. Due to the short timeframe and timing of Respondent’s licensure, Counsel recommends Respondent be issued a Letter of Warning regarding the guidelines for advertising.

Recommendation: Letter of Warning.

Decision: The Commission accepted counsel's recommendation.

80. 2019100831

Opened: 12/17/2019

First Licensed: 10/26/2015

Expires: 10/25/2021

Type of License: Affiliate Broker

History: None

Complainant is an out of state resident. Respondent is a licensed affiliate broker and their listing agent. Complainant alleges Respondent informed them they had a full-price offer and buyers were not asking to share any part of the closing costs. Complainant states closing took a while and then they received a document requesting them to pay half of the closing costs. Complainant states they informed Respondent to remove that provision since that was not in the deal. Respondent acknowledged their mistake and Complainant acknowledged they should have read more closely. Complainant then states they had no legal right to get out of the contract and had to pay \$5,100 in closing costs. Complainant then requested Respondent pay half of the closing costs since this was half their mistake. Complainant then alleges they spoke to Respondent's broker who acknowledged Respondent's error and that Complainant would receive "something." Complainant has not received any additional information from Respondent or their broker.

Respondent stated they informed Complainant they received a full price offer and that the buyer was asking for half of the closing costs and provides support text messages. Respondent states the transaction was extended several times and the last extension was signed after the closing cost total had been disclosed to Complainant. Respondent states Complainant also had a back-up offer at that time and Complainant chose to tend the contract and no accept the back-up offer. Respondent is unaware of any conversations with their broker. Respondent states they contacted a real estate association hotline and were told to speak with their broker and that sharing a portion of their commission could be violation of Tenn. Code Ann. § 62-13-302(b).

Complainant provided a rebuttal with text message supporting their claims where Respondent stating no closing costs. Based on the information provided, Counsel believes that both parties share some fault. Complainant ultimately signed the offer that included half of the closing costs and acknowledged not reading closely. Respondent also acknowledged they made a mistake. Therefore, Counsel recommends Respondent be issued a Letter of Warning informing Respondent of the duties owed to their client.

Recommendation: Letter of Warning.

Decision: The Commission voted to issue a consent order with a \$500.00 civil penalty for violation of Tenn. Code Ann. § 62-13-403(1) and four (4) hours continuing education in Contracts to be completed within 180 days of the execution of the consent order.

81. 2020002811

Opened: 1/13/2020

First Licensed: 1/1/1971

Expires: 9/6/2020

Type of License: Real Estate Broker, Voluntarily Surrendered License, Uninsured

History: None

This complaint was administratively opened by the Commission and related to Complaint No. 2019072151. Respondent is the principal broker of the affiliate broker in this complaint. Complainants in the previous complaint alleged the affiliate broker was sixty (60) to ninety (90) days over in providing rent money and this consistently occurred for over a year.

Respondent answered the complaint through their attorney. Respondent's attorney states they have reviewed the complaint with the assistance of their daughter and legal counsel. Respondent is ninety (90) years of age and currently living in assisted living for the past three (3) years and suffers from macular degeneration and can no longer read or drive. Respondent states they have been licensed since 1971, has never had a complaint filed against them, and voluntarily surrendered their license in September 2019. Respondent states their affiliate broker was responsible for the property management portion of their firm. Respondent states they are not familiar with the Complainants from the underlying complaint and believes they are owed money from their firm. Respondent states they have not benefitted financially from any moneys held by their firm relating to Complainants' rent in 2019. Respondent states they realize they should have terminated their affiliate as principal broker when they were no longer engaging in the full practice of real estate. Respondent also states their affiliate broker was always fully aware of their health condition.

Based on the foregoing, Counsel believes Respondent is in violation of Tenn. Code Ann. § 62-13-312(b)(15) for failing to exercise adequate supervision over the activities of any licensed affiliate brokers within the scope of this chapter. Respondent has voluntarily surrendered their license and Counsel has contacted Respondent's counsel and they have no intention of ever renewing their license. Counsel recommends offering Respondent a consent order authorizing revocation of Respondent's license, with a provision stating if Respondent ever renews their license the must appear before the Commission.

Recommendation: Revocation.

Decision: The Commission accepted counsel's recommendation.

82. 2020004301

Opened: 1/16/2020

First Licensed: 5/31/2017

Expires: 5/30/2021

Type of License: Real Estate Firm

History: 2019 Consent Order with \$1,000 civil penalty for advertising property listed by another licensee without written authorization from the property owner

Complainant is a licensed affiliate broker. Respondent is a licensed real estate firm. Complainant states they discovered a sign that stated, "Fixer Upper Worth \$300K Price \$125k [phone number]."

Complainant called the phone number and was told that it was Respondent's property and the signs were put out when they have a new property in the area, but the sign is never in front of the actual property. Complainant states the sign does not say a brokerage name, phone number and misleading as they are appearing to advertise a specific property and price, but not property exists. Complainant provided a copy of the sign.

Respondent answered the complaint through their attorney. Respondent's attorney states they acknowledge Respondent's sign as written is non-compliant and has since pulled all non-compliant advertising signs. Respondent's attorney states that given the immediate remedial efforts taken by Respondent; they request the Commission issue an order where Respondent consents to the violation but would reserve any substantial punishment for any future violation. Counsel agrees with Complainant and Respondent's counsel that the sign is a violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(a) and (b). Therefore, Counsel recommends Respondent be assessed a One Thousand Dollar (\$1,000.00) civil penalty and an administrative complaint be opened against Respondent's principal broker.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty and administratively open a complaint against Respondent's principal broker.

Decision: The Commission accepted counsel's recommendation.

83. 2020006471

Opened: 1/27/2020

First Licensed: 3/21/2012

Expires: 3/20/2020

Type of License: Affiliate Broker

History: 2017 Consent Order requiring 6 hour CORE course for employing an unlicensed broker

Complainant is a licensed affiliate broker. Respondent is also a licensed affiliate broker. Complainant states Respondent mailed a postcard to a subdivision claiming the sale of the property with additional information regarding the terms of the sale. Complainant was contacted by the sellers about the postcard and finds this quite deceptive given Respondent was not involved in selling their house. Complainant states Respondent is claiming sales volume that they were not party to, and is engaging in deceptive marketing, advertising, and manipulating data to deceive the public. Complainant provides Counsel with a copy of the advertisement.

Respondent answered the complaint through their attorney. Respondent's attorney states the allegations Complainant has provided are true and that Respondent was not involved in the sale, and now realizes that this advertisement may be perceived as deceptive or misleading. Respondent's attorney states they apologize and will not make the mistake again. Respondent's attorney requests the Commission to require Respondent attend additional education training and issue a formal apologize to all parties.

Based on the forgoing, Counsel finds Respondent is in violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(e) which states no licensee shall advertise property listed by another licensee without

written authorization from the property owner and Tenn. Comp. R. & Regs. 1260-02-.12(3)(f) which states no licensee shall advertise in a false, misleading, or deceptive manner. Therefore, Counsel recommends a Five Hundred Dollar (\$500.00) civil penalty for the above-mentioned advertising violation.

Recommendation: Five Hundred Dollar (\$500.00) civil penalty.

Decision: The Commission voted to issue a Letter of Warning.

84. 2020007791

Opened: 1/30/2020

First Licensed: 8/16/2017

Expires: 8/15/2021

Type of License: Real Estate Broker

History: None

Complainant is a licensed real estate broker. Respondent is also a licensed real estate broker. Complainant states they were contacted by a representative from a local title agency asking if they wanted to continue to do broker priced opinions (“BPOs”) in the area. The representative further explained to Complainant they had completed forty (40) BPOs and been compensated. Complainant states they informed the representative they never completed a BPO and were not compensated. The agent informed Complainant they reached out since their W-9 was going to someone other than Complainant. Complainant confronted their broker, Respondent. Complainant states that Respondent informed them they had completed BPOs in their name as a way of “getting my name out there.” Complainant immediately contacted the title company and stated they never had access to the account or email address set up in their name. After gaining access, Complainant found out Respondent had signed their name to multiple contracts that contacted their social security number, license numbers, and a fraudulent resume. The account also included five (5) other companies they were signed up with. Complainant confronted Respondent again and was told they would not disclose what other companies Complainant was signed up for as that was “proprietary information.” Complainant states Respondent has signed them up for multiple broker preservation companies with an email address they have no access to. Complainant provided Counsel with tax documents, contracts containing their name, the fraudulent resume, and multiple signed agreements in their name.

Respondent answered the complaint through their attorney. Respondent states one of the ways the firm helps agents establish visibility with servicers is through participation in BPO fulfillment and selecting a new agent with the name on a report creates opportunity. Respondent states Complainant signed an “Independent Contractor Agreement” which states that all BPO accounts will be owned by the firm regardless of the name used on the accounts. Respondent states this provision helps establish visibility for new agents and they explained to Complainant they would be using her information to create a resume and make vendor applications for BPO work the firm would conduct in hopes it would translate into business. Respondent states they did not disclose the financial terms between the firm and its servicers as in their contract it states all accounts shall be the property of and managed by the firm. Respondent states they manage from start to finish this process and did not share the details related to communication with services or the application

process as this had not been an issue with brokers in the past. Respondent states Complainant was aware of Respondent and their firm using working with BPO accounts in her name and never expressed concerns until the filing of this complaint. Respondent provided a copy of Complainant's signed "Real Estate Independent Contractor Broker Agreement."

Based on the information provided, it is clear that Respondent completed BPOs on Complainant's behalf and signed contracts in Complainant's name. Counsel believes this is a violation of Tenn. Code Ann. § 62-13-312(b)(3) which states it is a violation to pursue continued and flagrant course of misrepresentation by making false promises through affiliate brokers, other persons, any medium of advertising or otherwise. Respondent continually misrepresented the individual completing the BPOs. Therefore, Counsel recommends Respondent be required to take continued education courses in contract for four (4) hours, an ethics course, and assessed a civil penalty of One Thousand Dollars (\$1,000.00).

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty, a four (4) hour contracts course, an ethics course, both to be completed in one (1) year, above and beyond Respondent's continued education requirements.

Decision: The Commission voted to accept counsel's recommendation; however, they voted to eliminate the ethics course and also to downgrade the Respondent's license to affiliate broker and in three years when eligible, Respondent must fulfill all requirements to upgrade license.

Chairman Griess adjourned the meeting at 11:47 A.M.