



**STATE OF TENNESSEE
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NASHVILLE, TN 37243
615-741-2273**

<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission held a meeting on October 14, 2021, at 8:30 a.m. EST at the Kingsport Higher Education Center located at 300 West Market Street Kingsport, TN 37660. In addition, the meeting was streamed virtually via WebEx meeting platform. John Griess called the meeting to order and welcomed everyone to the Board meeting. Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Commissioner Stacie Torbett, Commissioner DJ Farris, Commissioner Steve Guinn, Commissioner Joan Smith, Commissioner Jon Moffett, & Chairman John Griess. Commissioner Joe Begley, Commissioner Geoff Diaz, & Vice-Chair Marcia Franks, were absent. Quorum Confirmed. Others present: Executive Director Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Dennis Gregory, Associate General Counsel Pamela Vawter, Paralegal Carol McGlynn (via WebEx), Education Director Ross White, and TREC staff member Aaron Smith.

The October 14, 2021 board meeting agenda was submitted for approval.

Motion to approve the agenda was made by Commissioner Farris and seconded by Commissioner Smith. Motion passed unanimously.

Minutes for the September 8, 2021 board meeting were submitted for approval.

Motion to approve the September 8, 2021 minutes was made by Commissioner Farris and seconded by Commissioner Guinn. Motion passed unanimously.

INFORMAL CANDIDATE APPEARANCE

Sean Levredge and Principal Broker Ben Brychta appeared before the Commission to obtain approval for Mr. Levredge's Affiliate Broker license.

Motion to approve Mr. Levredge was made by Commissioner Torbett and seconded by Commissioner Moffett. Motion passed unanimously.

Deanna Johnson and Principal Broker Victoria Carmack appeared before the Commission to obtain approval for Ms. Carmack's Affiliate Broker license.

Motion to approve Ms. Johnson was made by Commissioner Torbett and seconded by Commissioner Smith. Motion passed unanimously.

Shannon Healy and Marketing Manager Glenn Brown appeared before the Commission to obtain approval for Ms. Healy's Acquisition Agent license.

Motion to approve Ms. Healy was made by Commissioner Farris and seconded by Commissioner Torbett. Motion passed unanimously.

Nathan Golden and Principal Broker Vivian Armstrong appeared before the Commission to obtain approval for Mr. Golden's Affiliate Broker license.

Motion to approve Mr. Golden was made by Commissioner Farris and seconded by Commissioner Guinn. Motion passed unanimously.

WAIVER REQUEST

Director Maxwell presented Martin Shaver to the Commission seeking a Medical Waiver and refund. Motion to approve Mr. Shaver's waiver request was made by Commissioner Farris and seconded by Commissioner Torbett. Motion passed unanimously.

Director Maxwell presented Kathryn Taylor to the Commission seeking a Waiver to pay fee remain in current status. Motion to approve Ms. Taylor's waiver request was made by Commissioner Torbett and seconded by Commissioner Moffett.

Motion passed 5-1 with Commissioner Guinn voting no.

EDUCATION REPORT

Education Director Ross White presented the Education Report to the Commission.

Motion to approve courses O1-O16 with the exception to course O12 was made by Commissioner Guinn and seconded by Commissioner Moffett. Motion passed unanimously.

After further discussion by the Commission, Commissioner Torbett made the motion **to approve course O12** motion was seconded by Commissioner Smith. Motion passed unanimously.

Education Director Ross White presented the Instructors Biography to the Commission.

Motion to approve instructor's biography was made by Commissioner Moffett and seconded by Commissioner Farris. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Director Maxwell updated the Commission on the topics below.

- **MISCELLANEOUS:** Director Maxwell discussed the 2022 TREC meeting dates with the Commission. Meeting adjustments will be discussed going forward to include consideration for ARELLO, and Fall-Break 2022.
- Director Maxwell, reviewed highlights of the new search platform via core.tn.gov as well as the TREC Newsletter.
- In addition, further discussion regarding the December 2021 meeting in which approval given to cancel.

LEGAL PRESENTATION

Associate General Counsel Anna Matlock presented the Commission a settlement offer pertaining to the summary suspension hearing held in April of 2021. The Commission voted to accept the settlement offer which provides that Respondent's license to be permanently voluntarily suspended (same as revocation), stipulations should the Respondent ever reapply for licensure with the Commission, and the assessment of payment for the filing fee associated with the matter's Notice of Hearing & Charges. This was signed by Chairman Griess, Respondent's attorney, and Ms. Matlock. Following signature, the matter was voluntarily dismissed with the Administrative Procedures Division.

CONSENT AGENDA

The following cases were presented to the commission via a Consent Agenda. All cases were reviewed by legal and were recommended for either dismissal or discipline.

A motion was made to accept Counsel's recommendation for cases 1-63 with exception of the following cases, which were pulled for further discussion: **2021060311, 2021059301, 2020051881, 2021049531, 2021057281, 2021059081.** This motion was made by Commissioner Smith and seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission on complaint 2021060311, Commissioner Guinn made the motion **to accept counsel's recommendation.** The motion was seconded by Commissioner Moffett. Motion passed unanimously.

After further discussion by the Commission on complaint 2021059301, Commissioner Smith made the motion **to accept counsel's recommendation.** The motion was seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission on complaint 2020051881, Commissioner Torbett made the motion **to accept counsel's recommendation to authorize a formal hearing and issue a Consent Order but voted to increase the civil penalty amount to \$2000.00 and to open a complaint against the new owners of the property management business.** The motion was seconded by Commissioner Smith. Motion passed 4-2 with Commissioner Guinn, and Commissioner Farris voting no.

After further discussion by the Commission on complaint 2021049531, Commissioner Farris made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Smith. Motion passed unanimously.

After further discussion by the Commission on complaint 2021057281, Commissioner Farris made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission on complaint 2021059081, Commissioner Smith made the motion **issue a Letter of Instruction as to reasonable skill and care**. The motion was seconded by Commissioner Moffett. Motion passed unanimously.

COMPLAINTS

DENNIS GREGORY

1. 2021049461
Opened: 8/9/2021
First Licensed: 3/2/1988
Expires: 12/31/2022
Type of License: Principal Broker
History: None

The Complainant is the buyer, and the Respondent is the buyer's broker. The Complainant says she hired the Respondent to handle the search and purchase of a residence in May 2020. The subject property was purchased and closed on in June 2020. In short, it appears the genesis of this complaint is the Complainant's dissatisfaction with the home. Specifically, problems related to the driveway and ongoing disputes with who is responsible for the repair of the driveway is the Complainant's prime issue.

The Complainant says she was persuaded by the Respondent not to request or get a home inspection (which now the Complainant theorizes would have revealed the problems with the house.). She goes on to say the Respondent asked "some of her friends" about what they would list their property for. The idea here is that she was attempting to get the best price for the friend rather than the Complainant.

The Respondent says she advised her verbally and discussed the same in the purchase/sale agreement that a home inspection was a good idea. In response to the allegation regarding the friend, the Respondent says that she asked some former clients (not personal friends) about potential listings in the area where the Complainant was looking to buy. This allegation seems taken out of context.

Overall, the complaint is not supported by any basis in fact.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

2. 2021051731
Opened: 8/9/2021
First Licensed: 4/29/1991
Expires: 7/8/2023
Type of License: Affiliate Broker
History: None

The Complainant is the buyer (represented by an agent), and the Respondent is the seller's broker. The Complainant says she viewed the subject property with her agent and then made an offer. The offer was not accepted. The Complainant says the Respondent told her agent that the Complainant's offer was "the second offer." She feels this information was not be shared.

At some point thereafter, the Complainant stopped working with her agent and contacted the Respondent directly. The Complainant say she told the Respondent to "notify me" if there was a change in the status of the property. Later, the prospective buyers backed out of the deal; however, the Respondent did not contact the Complainant. The complaint narrative somewhat drops off after this, but only says the Respondent's behavior was "unethical."

Given the nature of the Complainant's summary, the Respondent explains that she did not act unethically as the Complainant told her she had cut ties with her agent. Further, the Respondent says she did not have any adverse facts regarding the property that she had a duty to disclose.

Given the lack of a concise complaint narrative, there is no evidence to support the complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

3. 2021055321
Opened: 8/9/2021
First Licensed: 2/10/1997
Expires: 10/25/2022
Type of License: Principal Broker
History: 2015 Agreed Order for allegedly operating an unlicensed branch office

The Complainant is not a client or former client of the Respondent's. The Complainant says he is involuntarily receiving emails from the Respondent. The Complainant goes on to say that he has "unsubscribed" from the Respondent's emails several times. The Complainant alleges a few months will pass, and then he will begin to receive the emails again.

The Respondent says he had his staff remove the Complainant's name from their mailing list. The Respondent goes on to say that while researching the Complainant's name, it was discovered that the Complainant has multiple email addresses, and those addresses may not have been removed initially. The Respondent believes the problem has now been rectified.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

4. 2021056051
Opened: 8/9/2021
First Licensed: 4/13/2017
Expires: 4/12/2023
Type of License: Affiliate Broker
History: None

The Complainants are the buyers, and the Respondent is the seller. The Complainants, while working with an agent, purchased a home owned and listed by the Respondent. The sale appears to have occurred in 2020. The issue is the condition of two fireplaces within the home. The Complainants claim they had an inspection after closing and the chimney inspector deemed the fireplaces to be inoperable. The cost to repair the chimneys was approximately \$12,000. Additionally, they claim the basement has flooded twice since purchase. The Complainants allege the Respondent told them nothing about either condition prior to sale.

The Respondent says he did not fail to disclose the conditions. The Respondent says that he and his spouse purchased the subject property in 2017. He says that during the home inspection, the buyers' agent asked if the fireplaces were ever inspected. The Respondent claims that they told the buyers' agent that a licensed contractor had looked at the chimney roughly 1.5-2 years prior to the sale and verbally stated the fireplaces were "in working order."

They also told the buyers they had never personally used the fireplaces. Apparently, the home inspection the buyers received before purchase did not include a thorough inspection of the chimney. As to the flooding, the property disclosure mentioned that there was previous flooding in the home. The repair/replacement proposal also mentions that the fireplace did not have a liner. According to the Respondent, there was also a reduction in price due to the possibility of repairs to these items.

The Complainants appear to have been aware of potential problems with both areas of the house. There is no evidence of failing to disclose on the Respondent's part.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

5. 2021056271
Opened: 8/9/2021
First Licensed: 9/2/2020
Expires: 9/1/2022
Type of License: Affiliate Broker
History: None

The Complainant is the buyer, and the Respondent is the seller's broker. The Complainant purchased the subject property for one of her children. The Complainant was working with a broker at the time. The Complainant says they negotiated for giving the sellers a bit more time to vacate the property as one of the sellers was disabled and the co-seller spouse was already out of state. Once the Complainants took possession of the property on June 27, the Complainant says the property was filthy, requiring them to haul off a good bit of junk and garbage. A few of the items were, apparently, the dishwasher, refrigerator, and stove. The Complainant believes the Respondent should pay for the cost of removal and then "go after their client."

The Respondent says the purchase agreement was originally signed on May 9, 2021. The agreement provided for a final inspection to be completed 3-5 days prior to closing. This final inspection, according to the Respondent, never occurred. There were additional delays since the Complainant had to change lenders and later failed to bring a certified check to closing (personal check). In any event, the Respondent agrees with the Complainant that the seller was given more time to remain in the property following closing ("Temporary Occupancy Agreement"). The seller moved out on June 25.

On June 27, the buyer's agent contacted the Respondent, and said the Complainant had found the home in bad condition. Due to some personal issues with sick children, the Respondent says she was unable to get over to the house to help with any clean up. She claims she did, however, offer to pay for a cleaning service to finish up whatever cleaning remained. There is no word if the Complainant considered that offer.

The Respondent had no duty to guarantee the property was clean before the Complainant took possession. The seller had vacated the property on the agreed upon date. Furthermore, the Temporary Occupancy Agreement relieved all the agents from any liability associated with the occupancy agreement.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

6. 2021056281
Opened: 8/9/2021
First Licensed: 4/3/2018
Expires: 4/2/2022
Type of License: Affiliate Broker
History: None

The Complainant is the buyer, and the Respondent is the seller/owner. The Respondent's corporation owned the subject property. The Complainant purchased the residence in June 2019. The Complainant says that in the months following the purchase she noticed "structural issues" related to a retaining wall that she believes were concealed by the Respondent.

The Complainant says there were two evergreen trees and freshly laid sod that were planted at the edge of her backyard when she took possession. She says the trees and sod died three months after closing. She then explains that she discovered a slab of concrete, threaded with steel cabling, beneath the sod and evergreen trees. She thinks the concrete slab was put there to stabilize and prolong a failing retaining wall that was not found during the home inspection (or by her).

The Respondent says that the subject property was purchased by his corporation for investment purposes only-he never lived in the house. The property disclosures provided to the Complainant did not contain any information about the trees as the Respondent says he was unaware of any concrete slab beneath the sod. He goes on to say that he was aware of the retaining wall; however, he was not aware that the wall was on the property. The wall, according to him, is in a forested area at the back of the property several yards away from the house. In any event, he did not know any of the history concerning the wall or that a concrete slab had been constructed to support it. The Respondent denies he or any representative constructed the wall or the slab. The home appears to be 50+ years old.

There is no evidence the Respondent intentionally withheld information. Further, as a broker, he was not in a position to know about subterranean conditions on the property.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

7. 2021046061
Opened: 8/17/2021
First Licensed: 12/10/1999
Expires: 1/9/2023
Type of License: Principal Broker
History: None

The Complainants are the buyers and the Respondent is the principal broker for the Complainants' broker (affiliate broker). The Complainants worked with the Respondent's affiliate broker to find a new home as part of a relocation from California to Tennessee. The Respondent wrote two offers that fell through as the Complainants' say they "did not wish to raise our price or lower our standards." Without using the affiliate broker, the Complainants say they found a listing on their own and then asked the affiliate broker to write up an offer. The Complainants admit they wanted to make an offer without asking for an inspection. The Complainants then changed their mind and decided they wanted an inspection. This, ultimately, set in motion all the problems. The affiliate broker, allegedly, told the Complainants they were already locked in.

The Respondent largely echoes what the affiliate broker said in his earlier statement: The Complainants were hard to deal with and they ventured out on their own. He agrees with the affiliate broker's position that the Complainants they could not just walk away from a contract and expect to get any earnest money back short of other factors being present.

There is no evidence the Respondent failed to supervise the affiliate broker.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

8. 2021054481
Opened: 8/17/2021
First Licensed: 3/24/2015
Expires: 3/23/2023
Type of License: Affiliate Broker
History: None

The Complainant is the buyer, and the Respondent is the seller's agent. The Complainant was represented by a broker whom the Complainant has already lodged a complaint against. The Complainant's garbled complaint summary seems to suggest the Respondent acted in some unethical manner due to the fact the Respondent is related, by marriage, to the seller and the home's caretaker. The home had a caretaker as the home had been vacate for some time. The Respondent and the caretaker are brother and sister in-laws. This complaint was likely filed as the complaint against the Complainant's broker was closed in August.

The Respondent clearly provided the requisite "Personal Interest Disclosure & Consent" form to the Complainant. The Complainant's allegations are so vague, that the Respondent was barely able to provide a cogent response.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

9. 2021056961
Opened: 8/17/2021
First Licensed: 5/3/2013
Expires: 5/2/2023
Type of License: Principal Broker
History: 2019 Consent Order for Failure to Supervise an Affiliate due to Lapse in Affiliate's E&O Insurance

This is an anonymous complaint against the Respondent for alleged advertising/failure to supervise violations. The Respondent is the managing broker in this complaint.

The complaint says that one of the Respondent's affiliate brokers has an inaccurate listing. Specifically, that one agent's Zillow account is under another affiliate's listing on the MLS with no "co-list agent."

The Respondent says the following: "I have had the opportunity to investigate and learned that due to [current affiliate] and [former affiliate] working as a team while [former affiliate] was affiliated with our office, the information on [former affiliate's] Zillow profile had not been updated and I had no idea her profile showed [current affiliate's] name attached, neither was I aware that her website contained my agent's information since she has not been with us for some time now." The Respondent closes by saying the former affiliate broker has made the necessary changes to her personal website and to her Zillow profile to avoid further confusion.

As the problem arose as a result of the "former" affiliate broker's website, the Respondent had no responsibility to monitor the former affiliate's website or Zillow account. At best, the Respondent, if the issue had been more apparent, should have told the current affiliate broker to contact the former affiliate and tell the former to take her photos off her advertising platforms.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

10. 2021057001
Opened: 8/17/2021
First Licensed: 6/11/2014
Expires: 6/10/2022
Type of License: Affiliate Broker
History: None

The Complainant is the buyer, and the Respondent is the sellers' agent. The Complainant was represented by a broker during the subject transaction.

The Complainant says the problem with the Respondent started at closing when an issue about the home's window treatments and patio sunscreen arose. The Complainant thought the items were to stay with the house, but the window treatments and patio sunscreen had been removed by the sellers. After some discussion between the brokers, the sunscreen netting was re-installed (the sellers say this was never discussed, but they relented anyway). The Complainant then says he arrived at the property the next day and saw a man near the property on a phone. The individual turned out to be the Respondent (the Complainant had never met him) and a bit of shouting match ensued, apparently.

The Complainant says the Respondent told him he was "trespassing" as the purchase funds had not yet been received. The Complainant says he told him they were wired earlier that day; however, the Respondent told him to leave or the police would be called. The "standoff" eventually ended with no police being called. The Complainant seems to have filed this complaint because the Respondent was "aggressive" with him during this episode and for no other reason.

The Respondent says his sellers asked him to go confront the Complainant about being in the house before the funds had been wired and to contact the police if necessary. He explains that the confrontation at the house was not "aggressive;" however, he was concerned that the buyer was wandering around the house with the funds still pending.

The Respondent violated no statutes or rules.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

11. 2021057021
Opened: 8/17/2021
First Licensed: 5/21/2010
Expires: 5/20/2022
Type of License: Affiliate Broker
History: None

This complaint is related to #9 above. As with the earlier complaint, this complaint is also anonymous with the Respondent as the affiliate broker.

The Respondent says the photos contained in the complaint were taken from her personal Facebook page and not one used for realty advertising. Facebook "tagged" the individuals in the photo, one of which was her former Team member. Consequently, there was an older photo of the Respondent with her former Team member (still appearing as a realty Team) in a few different Facebook sites that were associated with realty advertising. The Zillow platform still had her former Team member still linked to her. The Respondent says she did not actively post any sales information with the former Team member-only Zillow included the sales information. According to the Respondent, Zillow matched listings that

she and the former Team member had together before she departed her previous realty firm.

As some additional background, the Respondent say she left her previous realty firm roughly six months prior to the complaint. The Respondent has since taken down the old information and updated all advertising.

Some of the photos the Complainant included could be interpreted as being “non-advertising” in nature; however, it is hard to argue the same for the photos on the Respondent’s realty website. Had the changes been made to the Respondent’s Zillow account, then Zillow may not have attached the sales information to the subject Team photos.

Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a \$500.00 civil penalty for the advertising violation of Tenn. Comp. Rules & Regs. 1260-02-.12(3)(f)(2) which requires that, “No licensee shall advertise in a false, misleading, or deceptive manner. False, misleading, and/or deceptive advertising includes, but is not limited to, the following: Licensees who hold themselves out as a team, group, or similar entity within a firm who advertise themselves utilizing terms such as “Real Estate,” “Real Estate Brokerage,” “Realty,” “Company,” “Corporation,” “LLC,” “Corp.,” “Inc.,” “Associates,” or other similar terms that would lead the public to believe that those licensees are offering real estate brokerage services independent of the firm and principal broker.”

Commission Decision: The Commission accepted counsel’s recommendation.

12. 2021057621
Opened: 8/17/2021
First Licensed: 6/24/2011
Expires: 11/18/2022
Type of License: Principal Broker
History: 2017 Consent Order for Failure to Supervise an Affiliate due to Lapse in Affiliate’s E&O Insurance; 2018 Consent Order for Allegedly Providing Forms to an Unlicensed Individual; 2019 Consent Order for Failure to Supervise an Affiliate due to Lapse in Affiliate’s E&O insurance

The Complainants are the buyers, and the Respondent is the buyers’ broker. The Complainants hired the Respondent through a referral to find a new home. The Respondent found a few listings based on their wants/needs and eventually found a house that was under construction. Apparently, the closing date kept getting pushed back and, ultimately, the seller backed out of the deal due to the lender finding some problems with the Complainants’ financial history. The Complainants then asked the Respondent to release them from their buyer’s agreement with the Respondent. The Respondent opted to hold them to the buyers’ agreement until it expired. It is not clear if the Complainants ever paid the Respondent.

The Respondent goes through a long story about helping the Complainants (several showings, etc.), which it appears she did; however, there is no closure to the story about her broker's fee. It appears she would be entitled to some compensation based on the agreement. It is up to her to pursue the matter or not. There is no evidence of any lack of professional skill or other statutory/rule violations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2021060311
Opened: 8/23/2021
First Licensed: 10/14/2013
Expires: 10/13/2021
Type of License: Principal Broker
History: None

The complaint is lodged by two retired Florida realtors (one or both live part of the year in TN). The Respondent is a TREC licensee.

The Complainants claim the Respondent "does his best to keep other Realtors out." They allege he only offers \$1.00 commission to other realtors to sell his listings and keeps "6% to 8% to himself." According to the Complainants, the Respondent tells other realtors he is the only one allowed to sell "in the park." The "park" is an RV or camper park in East TN (counsel looked it up on Google maps). Both Complainants live, seasonally, in the same park and compete with the Respondent.

The Complainants go on to say that the Respondent uses his personal lot as his branch office (the Respondent's permanent address is in Kentucky). The Complainant alleges the office is a camper that does have a physical address associated with it. The Complainants say the Respondent uses a full-time realtor on-site in one of the campers. The complaint contains no photographs of the camper park or the camper being utilized as an office.

The Respondent says the \$1.00 "coop fee" is something that he asks the seller if they want to offer to another agent. He says that when he takes a listing, he puts this in the listing agreement (there was not a copy of such agreement provided by either party). He denies that he has ever said he was the only person allowed to sell in the park. In terms of what type office is kept at the park, the Respondent says most of the contracts are done in the camper in the park. The "park office," at least at one time, had a sign displayed that complied with the applicable statute; however, the sign violated the park rules and was taken down. The Respondent says he now has a license plate that displays the realty name as well as two golf carts that display the name parked outside the camper. This appears, although loosely, to meet the requirements for a "Branch Office" under Rule 1260-02-.03(3)(a).

Without any further evidence to the contrary, the Respondent's office in the park appears to meet the requirements for a branch office under Tenn. Code Ann. § 62-13-309(a)(1)(A) and (B) and Rule 1260-02-.03(3)(a)(1-3).

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

14. 2021054851
Opened: 8/23/2021
Unlicensed
History: None

The Complainant is a tenant living in a property the Respondent manages. The Respondent is, apparently, an unlicensed property management company.

The Complainant says they moved into the subject home in January 2021. The Complainant says they had to get some carpet cleaning done out of their pocket as the previous tenants had left a mess. The Complainant's primary issue now is the faulty HVAC that will supposedly only cool the home to between 80-85 degrees. The Complainant claims to be current on rent.

The Respondent did not respond to the complaint as all mail correspondence was undeliverable. There is no record of any TREC license. The Respondent has a Facebook advertisement for property management services.

Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty for a violation of Tenn. Code Ann. § 62-13-301 (unlicensed activity), which states: "It is unlawful for any person, directly or indirectly, to engage in or conduct, to advertise or claim to be engaging in or conducting the business, or acting in the capacity of a real estate broker, affiliate broker, time-share salesperson or acquisition agent, as defined in § 62-13-102, within this state, without first obtaining a license as broker, affiliate broker, time-share salesperson or acquisition agent, as provided in this chapter, unless exempted from obtaining a license under § 62-13-104. No person shall be permitted to hold, at the same time, an active time-share salesperson license and an active acquisition agent license."

Commission Decision: The Commission accepted counsel's recommendation.

15. 2021056361
Opened: 8/23/2021
First Licensed: N/A
Expires: N/A

Type of License: Course Provider
History: None

This is an anonymous complaint. The Respondent is a nationally recognized continuing education school. **As background, the brokerage firm discussed below had a complaint lodged against them by the same Complainant. It was presented on the September TREC report and closed. The firm indicated in their response to the earlier complaint that they had sent a demand letter to the school to remove their name from the school's website. As of September 16, 2021, the firm's name had been taken down.*

The Complainant says the education provider's website is also displaying a prominent brokerage firm's name. A snapshot from the Respondent's website was provided with the school's name and firm's name displayed side-by-side. The Complainant alleges the brokerage firm is providing classes and questioning the need for real estate schools if brokerage firms can teach CE. The real issue, of course, is the appearance of the firm's name alongside the school's name on the school's website as advertising.

The Respondent says the brokerage firm is not providing classes or CE-only the Respondent school is teaching courses. The Respondent says that "advertisement" is: "a notice or announcement in a public medium promoting a product, service, or event or publicizing a job vacancy." This definition was, apparently, pulled from Google-not from the statutes or rules. The Respondent goes on to say that they are not advertising for the brokerage firm and vice versa. Part of this statement is true as the firm has already made it known they do not want their name on the Respondent's website.

Rule 1260-02-.12(1) suggests that "advertising" can be defined as something that "promotes either a licensee or the sale or lease of real property..." In light of this, then the appearance of the firm's name would appear to be promoting a licensee's services when viewed by the public on the Respondent's website.

Recommendation: Letter of Warning in order to advise the Respondent of the language in Rule 1260-05-.06(1)(b)-Relationship with Brokers. "No course in real estate which is designed to satisfy education requirements established in T.C.A. 62-13-303 may be: advertised in conjunction with any advertisement for the business of a broker or brokerage firm."

Commission Decision: The Commission accepted counsel's recommendation.

16. 2021058461
Opened: 8/30/2021
First Licensed: 4/29/2021
Expires: 4/28/2023
Type of License: Affiliate Broker
History: None

The Complainant is a TREC licensee living in Florida. The Respondent is a TREC licensee.

The Complainant alleges the Respondent is listing properties where the Respondent has a personal interest. He says that this fact is not disclosed on MLS. Next, he says the Respondent is operating a Team website in which the firm telephone number and address are not listed on the site. He also claims that his Team name on advertising is more prominent than his affiliated firm name. The photos of advertising included with the complaint do not contain the Respondent's name but another realtor.

The Respondent says that he has created a corporate entity that does work with other realtors in his area. He explains that a small portion of the properties in which he had a personal interest became active after he acquired his license in April 2021. He admits that one of the listings may have not included a personal interest disclosure/disclaimer. He says he has now updated that listing with the appropriate disclosure. As to the advertising, he says that the advertising provided by the Complainant is not his.

Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a \$500.00 civil penalty for a violation of Tenn. Code Ann. § 62-13-403(7)(A), which states: "A licensee who provides real estate services in a real estate transaction shall owe all parties to the transaction the following duties, except as provided otherwise by § 62-13-405, in addition to other duties specifically set forth in this chapter or the rules of the commission: Not engage in self-dealing nor act on behalf of licensee's immediate family or on behalf of any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of the interest and the timely written consent of all parties to the transaction."

Commission Decision: The Commission accepted counsel's recommendation.

17. 2021059301
Opened: 8/30/2021
First Licensed: 8/8/2019
Expires: 8/7/2023
Type of License: Principal Broker
History: None

The Complainant is the Respondent's former spouse. The Respondent is a TREC licensee.

The Complainant says the Respondent is in child support arrears in excess of \$24,000 stemming from an out of state child support order.

The Respondent says he fell behind somewhat in child support in 2020; however, he now claims to be caught up. Further, even if the Respondent was in child support arrears, this does not constitute a criminal conviction under Tenn. Code Ann. § 62-13-312(b)(12) where the Commission would have grounds to discipline.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

18. 2021059411
Opened: 8/30/2021
First Licensed: 10/22/2008
Expires: 8/13/2022
Type of License: Principal Broker
History: None

The Complainant is an out of state buyer, and the Respondent is the seller's broker and a principal broker.

The complaint was lodged over earnest money. The Complainant says he made an offer on a home on May 3, 2021. He claims the listing did not disclose that the property was a mobile home "encased in a wood façade." The Complainant paid for an inspection. Later, problems arose with the utilities not being turned on so that an adequate inspection could be completed by the Complainant's inspector. Specifically, the owner was unable to turn on the water for the inspection until a few days after the inspector got on site. Given the length of time the inspection went on, the seller decided to pull out of the deal with the seller retaining the earnest money, at least initially.

The Respondent says the buyer and his agent had been to the property prior to submitting the initial offer. The Respondent claims the home is clearly a modular/manufactured home on a permanent foundation (the photographs seem to support this). The MLS listing stated the property needed work and was being sold "as is." The Respondent and buyer's agent agreed on an extension to the closing date in light of the Complainant's desire for an inspection. The Respondent says the utilities were on, contrary to what the Complainant says (there is some discrepancy between which "utility" was active-light v. water).

According to the Respondent, it was then after the inspection that the Complainant, not the Respondent, pulled out of the deal based on "misrepresentation" of the property. From the time the initial closing extension was agreed upon until the Complainant backed out was roughly 20 days and 15 business days. The Respondent takes the position that this was more than enough time for the inspection to be completed.

A release of purchase and disbursement of earnest money was signed by the Complainant and the managing broker within 21 days of the deal falling through. *Although the Complainant signed, neither the seller nor the Respondent signed the disbursement agreement presented within 21 days. Presumably, the seller was already contesting the issue of the earnest money. The funds were then deposited into a trust account belonging to the closing attorney before the 21 days expired. The closing attorney eventually mediated the matter. On August 6, the Respondent and buyer's broker, through the mediation, agreed that \$750 would be returned to the Complainant and \$250 would be retained by the seller. The check was mailed out to the Complainant shortly thereafter. There is a second earnest money disbursement agreement that was signed in August 2021;

however, it is only signed by the Respondent, seller, and the managing broker-not the Complainant.

In rebuttal, the Complainant says the reason for the long inspection delays were due to the water not being turned on by the seller and because of a water leak under the foundation after the water had been turned on. The inspection says that in order for an adequate inspection of the septic and plumbing system, the water would need to be fully operable prior to closing. The Respondent recently received the full \$1,000 in earnest money.

Regarding the earnest money, the money was turned over to an attorney within 21 days of the failed transaction. While the money was never interpleaded, the Respondent had given the attorney the appropriate instructions to do so and the money was out of both the seller's and Respondent's possession. This complies with the Rule 1260-02-.09(9) in that it placed the earnest money in the closing attorney's hands.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2021059451
Opened: 8/30/2021
First Licensed: 8/28/2006
Expires: 8/27/2022
Type of License: Affiliate Broker
History: None

The Complainant is the sellers' broker, and the Respondent is a property manager.

The Complainant says the Respondent placed his lease sign in the Complainant's clients' (sellers) yard and took down her sign. The Complainant says this was also done without the sellers' permission.

The Respondent says he honestly did not see any sign in the yard when he drove up to the house to view the property. He also says he did not touch the Complainant's sign. The person responsible for posting his signs also says he did not see a sign up either. The photographs show faded grass beneath the Complainant's sign, indicating the sign had been down for at least several days and was likely out of view to anyone walking up to the house.

The Respondent goes on to say that he got an email from the buyer that "they were in escrow on the house." The buyer also asked when the property could be listed for rent. The Respondent says he had no intention of showing the property or gaining access to the property until the new owners owned the property. This appears to be a case of miscommunication on the part of the Respondent and the buyers. In any event, the sign was placed on the home's lawn without the sellers' permission and before the sale was complete.

Recommendation: Letter of Warning for posting a sign in violation of Rule 1260-02-.12(3)(d) which states: “No licensee shall post a sign in any location advertising property for sale, purchase, exchange, rent or lease, without written authorization from the owner of the advertised property or the owner’s agent.”

Commission Decision: The Commission accepted counsel’s recommendation.

20. 2021059501
Opened: 8/30/2021
First Licensed: 9/21/2020
Expires: 9/20/2022
Type of License: Affiliate Broker
History: None

The Complainant is a tenant at a property managed by some property management agency. The Complainant says her apartment unit was shown during a time she had requested no one to be in the apartment.

The Respondent is not the correct entity or person as the Complainant got the wrong information prior to submitting the complaint. All parties later confirmed that the Respondent was not the correct party.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

21. 2021059601
Opened: 8/30/2021
First Licensed: 12/9/2005
Expires: 12/8/2021
Type of License: Affiliate Broker
History: None

The Complainant is the seller, and the Respondent is the buyer’s broker.

The Complainant says the Respondent contacted her broker about the subject house which led to the buyer making an offer. The Complainant accepted the offer. The Complainant had listed the agent’s commission as 2.5%. The purchase sale agreement was then signed, but the Complainant then alleges the Respondent told her broker that the buyers would not submit earnest money unless “we gave her 3% commission instead of the 2.5%” originally agreed upon. Apparently, the Complainant agreed to that.

Later, the Complainant says the Respondent contacted her broker to arrange a walk through. Following this, the Respondent allegedly texted the Complainant’s broker and told her they buyers were keeping the keys to the house. The Complainant and broker

refused, although the keys were returned the next day prior to closing. The closing did occur on time despite some drama during the final walk through.

The Respondent says the lock box would not open after 8:30 p.m. so the Respondent could not place the keys back in the box. This led to the confusion about the Respondent appearing to keep the keys. The keys were returned the next day. Apparently, the Complainant's broker knew this and did not want to be "put out" by going to meet the Respondent to retrieve the keys that night.

The issue with keys was due to a series of events, namely, the lock box not opening after 8:30 p.m. (no explanation was provided from either party).

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

22. 2021062511
Opened: 9/2/2021
First Licensed: 2/25/1994
Expires: 7/27/2022
Type of License: Principal Broker
History: 2011 Consent Order for Failure to Supervise due to Lapse in Affiliate's E&O Insurance

The Respondent is the principal broker for an affiliate broker who posted a sign where the name of the selling agent was much larger than the name of the real estate company displayed on the sign showing a property for rent. There was no picture of the sign included with the complaint.

The Respondent says the problem has been remedied to comply with Tenn. Comp. Rules 1260-02-.12(3)(b) (Advertising). A picture of the sign was included with response and does now appear to be in compliance. *The Respondent's affiliate broker is the complaint in #27 below under "cases to be represented."

Recommendation: Authorize a contested case proceeding with authority to informally settle by Consent Order and payment of a \$500 civil penalty for failure to supervise pursuant to Tenn. Code Ann. § 62-13-312(b)(15).

Commission Decision: The Commission accepted counsel's recommendation.

23. 2021062531
Opened: 9/2/2021
First Licensed: 4/20/1983
Expires: 9/29/2022
Type of License: Principal Broker
History: None

The Complainant may be a TN TREC licensee; however, they did not state so in the complaint. The Respondent is the principal broker for the firm listing the subject property. The Complainant included a photo of a home with a realtor's sign in the yard. The Complainant says the home is listed as a "fixer upper" but is actually a condemned property. They also say the property is connected to city sewer but, in fact, it is not. They go on to say that the listing agent has advertised the property as either the owner or related to the owner. The Complainant's concern is that they just want the house represented accurately so it will not "continue to be a problem in the future."

The Respondent's firm did not respond to the original complaint. The Respondent's firm has since signed a Consent Order admitting to failing to respond (complaint presented during the August complaint). This complaint was opened solely against the Respondent as the principal broker.

Recommendation: Authorize a contested case proceeding with authority to informally settle by Consent Order and payment of a \$1,000 civil penalty for failure to supervise pursuant to Tenn. Code Ann. § 62-13-312(b)(15).

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

24. 2021055011
Opened: 8/23/2021
First Licensed: 8/27/2008
Expires: 8/26/2022
Type of License: Time Share Registration
History: None

The Complainant purchased a timeshare in September 2020. The Respondent is a timeshare company and TREC licensee.

The Complainant says they were sold a timeshare "in a deceitful manner." The Complainant says they were promised gifts in exchange for attending a timeshare sales pitch and then later purchased a timeshare. The Complainant now wants out of the contract.

The Respondent says the Complainant attended a timeshare offer meeting in which the Complainant agreed to the terms of the subject timeshare agreement. From the documents provided, the Complainant signed all documents in person. There were no violations of TREC statutes or rules.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

CASES TO BE REPRESENTED:

25. **2020051881**
Opened: 7/27/2020
First Licensed: 2/11/2009
Expires: 2/24/2021
Type of License: Principal Broker
History: 2014 Consent Order

The Complainant is a California resident and owner of property in Tennessee. The Respondent is a Tennessee licensed Principal Broker.

In April 2019, the Complainant transferred the management of two single-family homes in Middle Tennessee to a property management firm. The former property owner was to transfer all the records and information to the new property management firm. The new property manager was to acquire authority for any expenditures over \$50 for the properties and this did not always occur. The property manager managed two properties during the period of February 2019 to August 2020. The contract was terminated on August 7, 2020. The Respondent did not return the two security deposit amounts for each of the properties. The Respondent sent checks payable to the tenants. Therefore, these checks are non-negotiable. The Complainant has repeatedly demanded the return of the monies and the Respondent has refused to return the monies payable to the Complainant.

The Respondent provided a response and stated the security deposit will be returned to the tenant when the property has been vacated and these checks were written in the tenant's name and sent directly to the Complainant. The Respondent is willing to reissue the checks but has not received the previous checks in the tenants' names previously sent to the Complainant.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$4,000 for violations of the Tennessee Real Estate Broker License Act of 1973 by the Respondent's failure to account for or to remit any moneys coming into the licensee's possession that belong to others within a reasonable time (Tenn. Code Ann. § 62-13-312(b)(5)); failure to return the security deposit monies to the Complainant and for failure to exercise reasonable skill and care, failure to provide services with honesty and good faith, failure to timely account for trust fund deposits and all other property received from any party to the transaction pursuant to Tenn. Code Ann. § 62-13-403(1), (4), and (6)

Commission Decision: The Commission voted to authorize a formal hearing and assess a civil penalty in the amount of \$8,000.00 for violations of the Tennessee Real Estate Broker License Act of 1973 by the Respondent's failure to account for or to remit any moneys coming into the licensee's possession that belong to others within a reasonable time (Tenn. Code Ann. §62-13-312(b)(5)); failure to return the security

deposit monies to the Complainant and for failure to exercise reasonable skill and care, failure to provide services with honesty and good faith, failure to timely account for trust fund deposits and all other property received from any party to the transaction pursuant to Tenn. Code Ann. §62-13-403(1), (4), and (6). The Commission also voted and elected for Respondent to take the Principal Broker CORE class within 180 days of the execution of the Consent Order and for those hours not to count toward Respondent's CE requirement.

New Information: Counsel has been in communication with the Respondent's attorney in the last month.

Regarding the unauthorized expenditures, the Respondent's counsel says that, admittedly, the Respondent did authorize pressure-washing at one of the subject properties without prior approval. The cost of the service was \$250 and was done, apparently, in order to remove graffiti from the house or HVAC unit. After some disagreement, the management company ended up bearing the expense of that service. The other documents the Respondent complained of were available on the property management "portal."

The information the Complainant was seeking related to tenant addresses, employment history, credit, next of kin, etc. that she intended to use after she and the Respondent terminated their relationship. The Respondent's position was that such information could not be divulged to the Complainant as it was taken during the application process, citing the Fair Credit Reporting Act (FCRA). The Respondent, arguably, could have gained permission from the tenants to provide this information to the Complainant; however, they were not required to.

As to the security deposit checks, those were made out to the individual tenants "c/o the [Complainant]." This, however, occurred after the Respondent sold the property management company to a new owner. The sale of the business occurred on July 27, 2020 and the checks are dated August 7, 2020. It is the Respondent's contention that these checks were signed by the new entity's agents as opposed to her or her representatives. This could be a valid defense to any allegations related to the security deposits Tenn. Code Ann. §62-13-312(b)(5).

With this new information, it appears the only issue left is the unauthorized pressure-washing.

New Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$500 for violation of the Tennessee Real Estate Broker License Act of 1973 by the Respondent's failure to exercise reasonable skill and care and failure to provide services with honesty and good faith to any party to the transaction pursuant to Tenn. Code Ann. § 62-13-403(1) and (4).

New Commission Decision: The Commission accepted counsel's recommendation to authorize a formal hearing and issue a Consent Order but voted to increase the civil penalty amount to \$2000.00 and to open a complaint against the new owners of the

property management business.

26. **2021049531**
Opened: 7/6/2021
First Licensed: 3/4/2004
Expires: 7/7/2022
Type of License: Affiliate Broker
History: None

This is an anonymous complaint. The Respondent is the seller's broker. The Complainant alleges that the name of the selling agent is much larger than the name of the real estate company displayed on a sign showing a property for rent. There was no picture of the sign included with the complaint.

The Respondent says the problem has been remedied to comply with Tenn. Comp. Rules 1260-02-.12(3)(b) (Advertising). A picture of the sign was included with response and does now appear to be in compliance.

Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a \$500 civil penalty for violation of Tenn. Comp. Rules & Regs. 1260-02-.12(3)(b) which requires that "[a]ll advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. The firm name must appear in letters the same size or larger than those spelling out the name of the licensee or the name of any team, group, or similar entity."

Commission Decision: The Commission voted to authorize a contested case proceeding the authority to settle by Consent Order with a \$1,000.00 civil penalty and to open a complaint against the Principal Broker.

New Information: Counsel spoke with the Respondent's principal broker. He said the sign came down within 10 days of it going up. In short, he is requesting the civil penalty be reconsidered given the Respondent's current level of expertise in the profession.

The Respondent is a rather new affiliate broker with no prior disciplinary history.

New Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a \$500 civil penalty for violation of Tenn. Comp. Rules & Regs. 1260-02-.12(3)(b) which requires that "[a]ll advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. The firm name must appear in letters the same size or larger than those spelling out the name of the licensee or the name of any team, group, or similar entity."

New Commission Decision: The Commission accepted counsel's recommendation.

27. **2021018961**
Opened: 4/27/2021
First Licensed: 1/24/2006
Expires: 5/15/2011
Type of License: Affiliate Broker
History: None

The Complainants are the buyers and the Respondent is the seller. The Complainants purchased a tract of land in June 2020 working with their broker. The Complainants say they were interested in the land on one condition: the ability to raise chickens on the property. The Respondent claimed to have told them he would check with the HOA regarding some kind of exception or variance. The Complainants claim the Respondent never broached the topic with the HOA. If he did, it was only for “household chickens” and not outdoor chickens. Regardless, the Complainants bought the property and now want the Respondent to buy back the property. The Complainants did not provide any documents supporting their contention.

The Respondent did not respond to the complaint.

Recommendation: Authorize a contested case proceeding and assessment of a civil penalty in the amount of \$1,000 for failure to provide a response in violation of Tenn. Code Ann. § 62-13-313(2) [a licensee shall within 10 days to file an answer to the complaint].

Commission Decision: The Commission accepted counsel’s recommendation.

New Information: After reviewing the complaint, the Respondent’s affiliate broker license had been in an “expired” status since 2011. The license status was overlooked when the complaint was summarized. As such, the Respondent was not required to provide a response to the complaint pursuant to Tenn. Code Ann. § 62-13-313(2).

The subject property was listed with a licensed realty firm. The on-line advertising for this firm says they are a “Real Estate Developer” and “Land Liquidation firm.” The Complainant has never provided counsel with any documents from the transaction and, apparently, refuses to answer any questions now posed via email. As such, the Respondent’s role in the underlying transaction is not clear. As explained in the original summary, the Respondent is the seller and also possibly the owner of the subject property. As the owner, the Respondent was permitted to sell his own land without a license.

The Complainant mentions another broker in the complaint, but even that person’s role is not explained. Without a cooperative complainant, putting on proof as part of a formal hearing will be difficult.

New Recommendation: Close.

New Commission Decision: The Commission accepted counsel's recommendation.

28. **2020063421**
Opened: 9/28/2020
First Licensed: 1/24/2006
Expires: 5/15/2011
Type of License: Affiliate Broker
History: None

Complainant is an Ohio resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent represented the owner of a development located in Tennessee. The Complainant purchased a lot on July 29, 2017 as part of a "Land Liquidation" sale offered by the Respondent's firm. The Respondent's firm stated the land was "100% completed infrastructure, paved and curbed roads with underground utilities." On July 11, 2020, the Complainant's builder advised the Complainant there was no electric running to the lot and the builder even contacted the electric cooperative and were advised a payment would be required in order to run electric from a lot three lots away from the Complainant's lot. On July 12, 2020, the Complainant contacted a representative of the Respondent's firm who also worked on the purchase and explained the situation to the Respondent's associate. There were several e-mails exchanged including a power route map. On August 9, 2020, the e-mail response from the Respondent's firm stated since the electric is so close, it is the Respondent's thought this is a general cost associated with construction and not the obligation of the Seller. The president of the homeowner association where the land is located stated the Complainant contacted the Respondent Affiliate Broker to address this matter. The Complainant contacted the Respondent and received no response. There were several follow-up e-mails sent to the Respondent and there was no response from the Respondent. The Complainant found there were other complaints lodged against the Respondent by another landowner who purchased a lot on July 29, 2017.

The Respondent did not provide a response to the complaint. Respondent's attorney was to provide a response and requested an extension of time in mid-October 2020. The Respondent's attorney indicated the matter has been settled and the Complainant will be withdrawing the complaint. There was no information received confirming settlement of all claims and no withdrawal of the complaint was submitted by the Complainant.

Recommendation: Authorize a contested case proceeding for violations of Tenn. Code Ann. §§ 62-13-313 (a licensee shall within ten (10) days file an answer to a complaint), 62-13-312(1) (making a substantial and willful misrepresentation), (4) misleading and untruthful advertising, and (20) any conduct that constitutes improper, fraudulent or dishonest dealing and assess a civil penalty in the amount of \$4,000 with the authority to informally settle by Consent Order.

Commission Decision: The Commission accepted counsel's recommendation.

New Information: The Respondent did provide a response and the attorney for the Respondent provided a supplemental response indicating the Complainant withdrew the complaint and indicating the parties have settled the matter and resolved all issues. The Complainant submitted a letter requesting withdrawal of the complaint and no longer interested in pursuing this matter.

New Recommendation: Close

NEW DECISION: The Commission voted to authorize a contested case proceeding and issue a Revised Consent Order with a \$2000.00 civil penalty, \$1000.00 for the advertising violation and \$1000.00 for failure to respond to a complaint.

New Information: The Respondent was granted an extension of time to respond to the initial complaint and did provide a response. The confirmation and withdrawal of the complaint by the Complainant was in a voicemail from the Complainant and TREC Legal Counsel did not receive the voicemail and there was a delay in the delivery of the voicemail due to an issue with the voicemail system. The voicemail was received a few days later. The Complainant also submitted a written withdrawal of the complaint requesting the Commission to withdraw the Complaint since the parties have settled the matter and resolved the issues in the complaint.

New Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and assessment of a \$1,000 civil penalty for the advertising violation.

New Commission Decision: The Commission accepted counsel's recommendation.

New Information: The Respondent's license had been expired since 2011. Therefore, none of the alleged violations apply to the Respondent as those apply to licensees only. Additionally, the Complainants agreed to a settlement that includes their agreement not to pursue any further claims against the Respondent. Additionally, the Respondent appears to be an employee of the "Land Liquidation" firm that holds a firm license.

New Recommendation: Close.

New Commission Decision: The Commission accepted counsel's recommendation.

PAMELA VAWTER

COMPLAINTS:

29. 2021029741
Opened: 5/4/2021
First Licensed: 5/16/2011
Expires: 10/30/2022
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed principal broker. Complainant is an attorney representing a buyer (an out-of-state limited liability company) concerning a real estate transaction. Respondent was the listing agent.

Complainant alleges the property at issue in the transaction was marketed on an online auction site as four acres containing a 1,456 square foot house. The buyer submitted the winning bid on the property. Complainant states the buyer discovered after the purchase that the property encapsulated only a vacant one-acre lot. Complainant contends there were inaccuracies in the chain of title concerning the parcel number.

Complainant states the buyer sought rescission from the seller. The seller in turn filed a declaratory judgment action in chancery court against the buyer to determine the parties' interests in the real property and/or seeking reformation of the deed. The buyer then filed a counterclaim against the seller and a third-party complaint against the title company, Respondent, and Respondent's firm for breach of contract or rescission, unjust enrichment, intentional and negligent misrepresentation, among other claims. The third-party complaint alleges the marketing was inaccurate but does not allege that any specific error was committed by Respondent.

Respondent submitted a response stating that she is employed by a brokerage firm that provides listing brokerage services to large institutional sellers of bank-owned properties. The property at issue was listed for sale after having completed the foreclosure process. Respondent states that all information provided to her and every document she reviewed prior to listing the property confirmed that the property was a four-acre tract containing a 1,456 square foot residence. Respondent states she first became aware of the property shortly before signing a listing agreement which provided the parcel identification number for the property. Respondent used the parcel number to locate the property's tax records. Both the tax records and a Broker Price Opinion report from an independent broker confirmed that the property was a four-acre tract with a 1,456 square foot residence. When Respondent prepared the MLS listing, she entered the parcel identification number from the listing agreement into the required field, which caused the information from the tax record to populate some of the listing details, including the lot size. Respondent provided all of the above documentation. She states that she marketed the property correctly according to all information available to her and did not learn of any information to the contrary until receiving this complaint. She states she used reasonable skill and care throughout the transaction.

This matter was referred to investigation for additional information. Respondent, through her attorney, provided a sworn supplemental statement stating that the parcel numbers at issue are two adjoining properties, one with a four-acre lot and house, and the other with a one-acre wooded lot. In 2005, the former owner of both tracts (now deceased) executed a warranty deed containing the mailing address and parcel ID for the four-acre residential lot but containing the legal description for the one-acre wooded lot. As a result of the initial error by the prior owner, the warranty deed and all subsequent deeds in the chain of title contain the error, which resulted in the inadvertent conveyances of the four-acre lot any time an interest in the one-acre lot was intended to be conveyed. The property passed to the former owner's widow who defaulted on the mortgage, resulting in foreclosure and subsequent sale.

The mortgage company entered into a listing agreement with Respondent's firm to sell the four-acre residential lot, which is the parcel that contained the incorrect legal description and parcel ID since 2005. Respondent cross referenced the information in the listing agreement with county tax records and the BPO report, both of which verified the parcel ID was the four-acre lot, which was consistent with the information the seller provided. About four months after closing, the buyer learned of the error in the original 2005 warranty deed and the other deeds in the chain of title related to the parcel ID and the litigation ensued. Respondent provided all pertinent documentation with her response.

Respondent states that she and her firm have filed a Motion to Dismiss the third-party complaint for failure to state a claim. The motion is expected to be heard sometime in October of 2021.

Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

30. 2021055201
Opened: 8/2/2021
First Licensed: 4/30/2013
Expires: 3/11/2022
Type of License: Principal Broker
History: 2019 Consent Order for Failure to Exercise Reasonable Skill and Care

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

Complainant alleges Respondent requested to list Complainant's property for sale. Complainant states they own an art studio and gallery. She states the property is zoned as residential. Complainant contends the County created a separate address for a half-acre in order to charge commercial taxes. Complainant states that Respondent listed the property as ¼ commercial under the commercial tax bill address and the rest as residential under the

residential tax address and asked that the properties be sold together. Complainant alleges the listings were taken down.

Complainant contends Respondent advised that she had received inquiries asking that the property be subdivided. Complainant states they advised Respondent that they could not afford to pay off the mortgage in order to subdivide. Complainant alleges the Respondent suggested they list property as subdivided, sell it, and then subdivide after the sale. Complainant states they rejected the suggestion. Complainant became increasingly dissatisfied with Respondent's handling of the listing when the property was not selling. Complainant seeks to be released from the listing agreement.

Respondent submitted a response stating that she marketed Complainant's property as agreed upon. Respondent states the property is not selling because of Complainant's pricing and lack of completion of exterior painting and driveway repairs. Respondent states Complainant has made rude and inflammatory calls, and she has asked them to call the office line instead of her personal cell phone.

Complainant has alleged that Respondent sought to misrepresent the listing by describing it as subdivided when it was not, and then subdividing it after the sale. Complainant alleges she declined, and this was not included in the listing. Respondent provided a copy of the listing but did not provide a response to the allegation about presenting a suggestion to misrepresent the listing. Therefore, based on the information provided, Counsel recommends a \$1,000.00 penalty for violation of Tenn. Code Ann. § 62-13-403(4) (Duty to provide services to each party to the transaction with honesty and good faith).

Recommendation: Authorize a civil penalty in the amount of \$1,000.00 for violation of Tenn. Code Ann. § 62-13-403(4) (Duty to provide services to each party to the transaction with honesty and good faith).

Commission Decision: The Commission accepted counsel's recommendation.

31. 2021055621
Opened: 8/2/2021
First Licensed: 6/9/2014
Expires: 6/8/2018
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a former affiliate broker whose license has been in expired status since June 8, 2018.

Complainant alleges Respondent negotiated lease terms while being unlicensed. Complainant does not provide any specific information or documentation concerning the allegation. Complainant is in a lease dispute with the property owner concerning rental amounts owed.

Respondent provided a response stating that he is a property manager for a company that owns multiple rental properties. Regarding his duties as property manager, Respondent states his primary responsibility is being the 'middleman' between maintenance staff and tenants, assigning work orders, planning of duties for turnover work and labor, daily meetings at the beginning and end of the shifts to cover daily tasks, planning the next jobs that need to be completed, ordering supplies for both the office and maintenance staff, and routine checking parking lots and properties for safety issues. He states his only involvement in the leasing process is sending the leases out to tenants using a pre-filled template that the company owner created. He states he does not negotiate a lease, the terms of the lease, the security deposit amount, or the price of any rental. The company owner handles it.

Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

32. 2021056401
Opened: 8/9/2021
First Licensed: 1/18/2017
Expires: 1/17/2023
Type of License: Affiliate Broker
History: None

Complainant is an anonymous Tennessee real estate licensee. Respondent is a licensed affiliate broker. This matter is related to Case No. 2021056961 (No. 9 above) and Case No. 2021057021 (No. 11 above).

Complainant contends that Respondent is appearing in advertisements as a team member with another agent who is no longer affiliated with Respondent's firm. Specifically, Complainant alleges that Respondent is tagged on the former affiliate's Facebook page and is listed as a team member on the former affiliate's Zillow page and website.

Respondent submitted a response stating that the referenced items appeared to be outdated marketing efforts of the former affiliate. Respondent states that she was not aware that she was being included under the umbrella of the former affiliate's social media or Zillow accounts until she received the complaint and attachments. Respondent did not create the content and does not have access to the former affiliate's accounts/webpage. She immediately notified the former affiliate after becoming aware through the complaint, and the former affiliate corrected the content. Respondent states that she advertises solely on her own and provided a copy of her advertising.

Based on the information provided, there is no evidence that violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

33. 2021056461
Opened: 8/9/2021
First Licensed: 12/19/1978
Expires: 3/3/2023
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed principal broker.

Complainant alleges that Respondent's firm took out a lien on his property, and Complainant did not receive notice. Complainant decided to sell his property and entered into a sale agreement with Respondent's firm. Complainant alleges Respondent arranged for a local painter to paint the outside walls without Complainant's consent. Complainant states she found out and stopped it. Complainant states "[h]e also gave instructions to two Mexicans to do work inside my building, this also had to be stopped." Complainant disagreed with Respondent's idea about a balloon loan, which Complainant declined. Complainant alleges Respondent's firm was not responsive, and she terminated the agreement with Respondent's firm on November 29, 2020. Complainant contends the firm took a lien against the property with no cause and in attempt to strong arm her.

Respondent states Complainant willingly entered into an exclusive right to sell contract on September 9, 2020, for a one-year term. Respondent states he made significant efforts in good faith to sell Complainant's property and educate her as to her options and how to best take advantage of current market conditions to maximize the sale price of her building. Respondent denies that he commissioned contractors to work on her home without her knowledge. Respondent recommended that she paint the building to improve its appearance and arranged to meet with a painter to discuss options and costs. No commitment was made. When the information and samples were provided to Complainant, she elected not to move forward with any painting project, and nothing was done.

Respondent states the "two Mexicans" Complainant refers to are skilled craftsmen and carpenters. He states they are properly credentialed and well qualified for cleanup, renovation, and repairs. He states they are not Mexican, and their ethnicity or country of origin is irrelevant. The contractors met with Complainant to discuss services with respect to Complainant's property. They were not part of Respondent's organization, and Respondent did not hire them to perform any work. They elected not to accept work from Complainant because she refused to pay their standard hourly rate detailed in the quote. That was the end of any discussions regarding the contractors.

Respondent states that months before entering into a listing agreement, Respondent discussed an option with Complainant that it might be beneficial for her to consider extending owner financing to a prospective buyer in a sale transaction. Respondent states at no time did he suggest it was a requirement but merely something to explore for possible benefits. Respondent urged Complainant to seek guidance from legal counsel, a CPA, and her family.

Respondent states Complainant decided unilaterally to terminate the exclusive sale agreement on November 29, 2020. Respondent explained his firm's position that it would be unfair to terminate the agreement. Respondent states Complainant closed access to the building, removed signage and materials from the building, and then refused communication. Respondent states that after being unable to reach Complainant for five weeks and not receiving any return contact from her, Respondent made a difficult decision to file a lien against the property to protect the financial and time investments the firm made in the property.

This appears to be a contractual dispute between the parties. Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

34. 2021056881
Opened: 8/9/2021
First Licensed: 10/29/1980
Expires: 12/15/2022
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensee.

Complainant contends she had talked to an owner of certain property when it was listed as FSBO and was told that the building was about 1,800 square feet. Complainant alleges the property was later listed by Respondent as 3,400 square feet. The listing was later adjusted to 2,626 square feet, which Complainant believes is still incorrect. Complainant states Respondent accused her of being a realtor, and that the property owner called Complainant a bottom feeder. Complainant believes Respondent is "fluffing up the price" because the property has been listed since December and has not sold.

Respondent submitted a response stating that when Complainant emailed about the square footage, Respondent believed she was a real estate agent. Respondent states that when she listed the property, she knew there was a basement and believed it had the same square

footage as the main floor. After receiving Complainant's email, Respondent went back to the footprint on the tax records and saw the basement had less square footage than the main floor. Respondent then corrected the listing and thanked Complainant. Respondent states that the basement apartment is 884 square feet and the two first floor apartments are 1,742 square feet, totaling 2,626 square feet for three apartments. Respondent states this is the size that has been listed since the correction was made in December, and the amount is correct.

Respondent denies "fluffing up the price" and states that the seller is responsible for the price. She states the seller has received offers but has in her mind the least amount she would take for the property. The seller does not have to sell and wishes to stick to her price.

Respondent provided a copy of the listing and the email exchanges in which she mistakes Complainant as a real estate agent inquiring about the property.

Respondent initially listed the property with the incorrect total square footage amount, but she corrected the amount once a potential error was brought to her attention. The property listing has been accurately since December of 2020. Respondent does not explain what information she initially relied on. Based on the information provided, counsel recommends a letter of instruction concerning diligence in exercising reasonable skill and care.

Recommendation: Issue a letter of warning concerning diligence in exercising reasonable skill and care.

Commission Decision: The Commission accepted counsel's recommendation.

35. 2021057301
Opened: 8/9/2021
First Licensed: 6/11/1990
Expires: 10/21/2022
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed principal broker.

Complainant alleges that Respondent listed property Complainant owns for sale on MLS. Complainant did not give permission for his property to be listed and asks for the listing to be removed immediately.

Respondent submitted a response stating that his firm had researched the information the out-of-state seller provided for the listing and accidentally entered the wrong map and parcel number. They did not realize what had happened until the listing went active. They immediately removed the listing and placed it at the correct address (on the same street). Respondent states it was an honest mistake and at no time did his firm try to fraudulently

list the Complainant's property. Respondent provided a copy of the re-listed property with the correct address.

Respondent immediately mitigated the error in the listing as soon as Respondent became aware. Therefore, counsel recommends closing the matter with a letter of instruction/warning concerning the duty to diligently exercise reasonable skill and care to all parties.

Recommendation: Issue a letter of instruction/warning concerning diligence in exercising reasonable skill and care.

Commission Decision: The Commission accepted counsel's recommendation.

36. 2021057491
Opened: 8/9/2021
First Licensed: 1/14/2015
Expires: 10/18/2021
Type of License: Principal Broker
History: None

Complainant is an out-of-state resident. Respondent is a licensed principal broker.

Complainant alleges that he attended a sales event in Tennessee, and that there was an effort to prevent his agent from receiving commission. Complainant contends Respondent was in charge of the event. Complainant alleges he had to establish a phone call between his agent and Respondent to ensure his agent received commission. He alleges the agent was offered only 1%, which Complainant contends was less than what the agent deserved. Complainant contends that the contract document had an inaccuracy in which a number in the street address was transposed, and this had to be corrected. Complainant contends he did not agree to the closing date. He states his agent had to generate an additional contract document. Complainant contends the sale closed on July 21, 2021, but the property showed as pending on MLS through August 1, 2021.

Respondent submitted a response stating that a developer land sale was conducted on May 15, 2021. Complainant's agent had shown them numerous lots in the community. During the showings, Complainant identified several non-developer resale lots that interested them, but they also wanted to attend the land sale. During the land sale event, Complainant decided to purchase a non-developer owned lot after being shown around by one of the land consultants working the event.

Respondent states the allegation that he cut Complainant's agent out of commission is false. Complainant's agent was emailed the Property Engagement Pass for the developer land sale showing that Complainant was working with that agent. Complainant called the agent (who was not in attendance) as they executing the contract with the land consultant. Respondent was called over to speak to the agent, and Respondent confirmed that there was a 1% cooperative compensation in association with the lot sale per the listing, and the agent agreed to the percentage.

Respondent states the land consultant wrote the contract. When Respondent received it on May 15, 2021, to submit to the seller, it had the correct address and a closing date of June 11, 2021. He states that Complainant's agent called on May 17, 2021, to advise the Complainant wanted to use a 1031 exchange provision which was not listed on the original Lot Agreement of Sale. At that time, both agents contacted their respective clients, and both parties agreed to rewrite the contract to include the 1031 exchange provision, which superseded the original contract.

Respondent states the contract close date was Friday, July 30, 2021. Complainant decided to close early on July 21, 2021. Respondent received the buyer's statement on August 2, 2021. Upon receiving the statement, Respondent states she updated the MLS listing and changed the status to closed.

Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

37. 2021053391
Opened: 8/10/2021
First Licensed: 4/6/2018
Expires: 4/5/2022
Type of License: Real Estate Firm
History: None

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

Complainant states she is an active duty servicemember and is being charged early termination fees for vacating her rental home after providing a copy of her military orders. Complainant states she was told in 2018 that she would not be charged an early termination fee. When Complainant called to dispute the early termination fee, she states she was told to send an email. Complainant is moving from his temporary address soon. She feels Respondent has violated the Servicemembers Civil Relief Act.

Respondent submitted a response stating that Complainant moved out of the rental home on May 31, 2021, citing military orders as the primary reason. Complainant's security deposit accounting was processed and mailed to her on June 29, 2021. On July 1, 2021, Respondent's accounts team received an email from Complainant regarding an error in the termination fees and a question regarding one of the charges. On the same day, Respondent responded to Complainant informing her that the termination fees would be removed along with a reduction for other damages charged. Respondent provided a copy of the communication and the resolution agreement that Complainant signed. Respondent states Complainant received a refund check on July 7, 2021, which cleared on July 22, 2021.

This is a contractual dispute/federal legal matter outside the Commission's jurisdiction. If Complainant believes the Respondent violated the Servicemembers Civil Relief Act, she would need to pursue the remedies available to her under the Act through the Department of Justice.

Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

38. 2021056601
Opened: 8/17/2021
First Licensed: 8/16/2018
Expires: 8/15/2022
Type of License: Affiliate Broker
History: None

Complainant alleges he is a Tennessee resident but has provided a fictitious address. Respondent is a licensed affiliate broker.

Complainant contends that Respondent is not a broker but is marketing herself as one. Complainant alleges he received an ad put out by Respondent for recruiting agents. Complainant submitted a copy of the ad.

Respondent submitted a response stating that the job posting was a flyer that went out searching for an executive assistant position, not recruiting agents. Respondent provided a screenshot of the email she sent to the person who sent out the flyer. The subject line identifies the job as Executive Assistant. The job posting does not provide any mention or indication of any recruiting for an agent.

Based on the information provided, there is no evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

39. 2021057191
Opened: 8/17/2021
First Licensed: 6/27/2017
Expires: 6/26/2023

Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant contends that Respondent sent him an agreement to show property that listed a commission amount that was greater than what Complainant contends they had on. Complainant states he asked Respondent to redo the agreement. Respondent revised the agreement, and Complainant signed it. The sale closed on March 20, 2020. Complainant alleges that Respondent told him over the phone that he would make it up to him by paying him a finder's fee for a different property. Complainant states Respondent did not pay a finder's fee. Complainant has created multiple invoices to the Respondent demanding a finder's fee, which has submitted with the complaint. One of the invoices threatens that Complainant will file a complaint to the Commission if Respondent does not pay Complainant's "invoice" for a finder's fee amount with interest.

Respondent submitted a response stating that he did not overcharge Complainant for anything. He states a first draft of the Agreement to Show Property form was incorrect. Respondent corrected it, and then Complainant signed it. Copies of the agreement were submitted. Complainant executed all the closing documents, and the sale closed with an attorney. Respondent states Complainant made \$50,000 profit on the transaction. Respondent contends that allegations made by Complainant are completely false.

Respondent's principal broker submitted a response and verified that the property at issue closed on March 20, 2020. She states there was another successful transaction with Respondent and Complainant as seller a few months later. The broker denies any information about Respondent offering a finder's fee.

Based on the information provided, there is insufficient evidence that Respondent violated the Commission's rules or statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

40. 2021057281
Opened: 8/17/2021
First Licensed: 4/5/2017
Expires: 4/4/2023
Type of License: Affiliate Broker
History: None

Complainant is a licensed principal broker. Respondent was a licensed affiliate broker. Her license is currently in retirement status.

Complainant alleges that Respondent took a previous well-test document that was required by a buyer's lender on a pending transaction and provided an altered version of the document. Complainant contends there was no actual test performed by the inspector. Complainant states that Respondent was previously an agent with Complainant's firm and had continued to work as transaction coordinator when the incident occurred.

Respondent submitted a response stating that she was acting as a contract transaction coordinator for the transaction that is the subject of the complaint. Shortly before the incident, Respondent had transferred her affiliate license to a new brokerage. She had remained as an administrative assistant in order to complete a few files. Another agent at her former firm asked Respondent to assist with the transaction at issue. The property went under contract on April 17, 2021. On April 27, 2021, the agent forwarded emails to Respondent from the lender requesting certain licensing information and a well test. A well inspection was scheduled for May 4, 2021, and the information was communicated to everyone on April 28, 2021.

On May 4, 2021, Respondent had a missed call and text from the well inspector. Respondent states she did not see the text message at the time. The text message stated the inspector was at the property, but no one was there to give him access. Respondent states she did see the missed call, but she did not know whose number it was at the time. She was busy with other matters and did not return the call. On June 8, 2021, the buyer's agent emailed Respondent asking for the well test results. Respondent states she was on personal errands and did not have access to her computer. Respondent states she had believed she had already received the letter, and so she searched for the email on her phone. She came across a letter the inspector had sent on another property and, knowing the lender needed the letter quickly, she states she inexcusably decided to put the name and address of the sellers on the letter and send it to the buyer's agent. She states she had planned to pull the correct letter when she got home and did not.

Respondent states that Complainant questioned Respondent about the letter, and she acknowledged altering the document. Complainant discussed the matter with Respondent's new broker, who broker-released Respondent. Respondent states she retired her license at her broker's suggestion, who also gave her a performance improvement plan to work on. Respondent states she greatly regrets her decision to alter the letter and has followed through on the suggestions offered by her broker for education and to better equip her to handle pressures, both business and personal.

Respondent's principal broker submitted a response stating that Respondent was very remorseful for her actions and that she truly believed the inspection had been completed. He states that Respondent was educated on the importance of providing services to all parties with honesty and good faith and exercising reasonable skill and care. He states Respondent accepted responsibility and sought to remedy her mistake. He states he felt the mistake required swift and firm reprimand and released her immediately along with the performance improvement plan, granting her time to educate and reflect with the possibility of re-entry to the firm. The plan included self-reflection, preventative measures, and completion of 16 hours of continuing education in addition to a minimum of 9 hours of

ethics education. He states that Respondent has worked toward completing the performance plan and understands the severity of her actions and is prepared for the consequences. He believes that with continued coaching and additional education, the mistake will not occur in the future

Based on the information provided, Counsel finds that Respondent has violated Tenn. Code Ann. § 62-13-312(b)(1) (Making any substantial and willful misrepresentation); § 62-13-403(1) (Failure to diligently exercise reasonable skill and care in providing services to all parties); and § 62-13-403(4) (Failure to provide services to each party to the transaction with honesty and good faith).

Recommendation: Authorize a contested case hearing for suspension of Respondent's license for a period of one (1) year and a civil penalty in the amount of \$2,000.00. Respondent shall provide proof of completion of a 16-hour CORE course in addition to 9 hours of ethics education. Upon the completion of the suspension period and compliance with all terms above, Respondent shall appear before the Commission at an informal appearance during a regularly scheduled meeting.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2021057431
Opened: 8/17/2021
First Licensed: 7/27/2012
Expires: 7/26/2022
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant entered into a contract to sell her home. Respondent represented the buyer. Complainant alleges that her agent communicated a list of items the buyer wanted fixed after the buyers' home inspection. Complainant contends one of the items on the list was that mold be mitigated by a profession company. Complainant states she later found out the wording from the home inspector was "slight mold, no structural damage." Complainant states her agent told her the buyer was insistent on the repair, and Complainant agreed and paid \$2,775.00 for the remediation. Complainant alleges the buyers told her at the closing that he had told Respondent not to worry about the mold. Accordingly, Complainant believes Respondent misrepresented the buyer's wishes, causing Complainant to incur costs.

Respondent submitted a response to the complaint stating that the purchase and sale agreement called for an eight-day inspection period, followed by a three-day resolution period. The buyer hired a home inspector. After the inspection, the inspector generated a thorough report, which formed the basis of the Buyer's Repair/Replacement Proposal, which was submitted to Complainant's agent. The proposal set forth 16 items which the buyer proposed Complainant repair or replace. One of the items on the proposal stated,

“Have the crawl space mold mitigated by a professional company and the crawl space vents capped off to no longer allow moisture in. See inspector’s recommendations.”

Respondent states that while the mold mediation request was included in the buyer’s proposal, it was not included in the Repair/Replacement Amendment that the buyer and Complainant signed. Respondent states she fully explained to the buyer that the proposal could be considered a starting point for the repairs/replacements agreed upon by both parties and included in a fully executed Amendment that would be completed. Respondent states she never spoke to Complainant about the proposal or the Amendment. Respondent states she was under no duty to explain the proposal versus Amendment to Complainant, who was exclusively represented by her own agent. Respondent communicated with the agent expecting the agent to explain the documents to the Complainant.

Respondent provided a copy of the Buyer’s Proposal and the Repair Replacement Amendment which confirms Respondent’s response. Based on the information provided, Respondent has not violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel’s recommendation.

42. 2021057911
Opened: 8/17/2021
First Licensed: 12/12/2013
Expires: 12/11/2021
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant alleges that she met Respondent at a home Complainant was interested in buying. Respondent represented the seller. Complainant contends she was there with an inspector to go over what he had found. Complainant alleges Respondent rudely asked what Complainant’s name was and if Complainant worked with the inspector. Complainant states when Respondent realized Complainant was the buyer, she did not apologize. Complainant states Respondent tried to get the inspector to send a copy of the report to her, and the inspector said he could only do that with Complainant’s approval, which Complainant gave. Complainant states when a roof inspector came, Respondent advised at the inspection that there was a backup offer on the house. Complainant states Respondent cancelled a viewing at the last minute, and Complainant speculates she did not want Complainant’s husband to see the home.

Respondent’s principal broker submitted a response on behalf of Respondent stating that she received a call from the buyer’s agent advising that Respondent was slurring her words and not making sense. Respondent’s broker stated Respondent was being rushed to the hospital by ambulance. Respondent was suffering a stroke and was hospitalized.

Respondent's broker assigned another agent to take over the file. Respondent's broker states that it would be very unlikely Respondent to be rude to anyone.

Based on the information provided, Respondent has not violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

43. 2021057931
Opened: 8/17/2021
First Licensed: 2/23/2015
Expires: 2/22/2023
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant entered into a contract to purchase property after reviewing it online. Respondent represented the sellers. Complainant contends the photographs he had reviewed were old. He states the back of the house was not newly painted and the interior was in poorer condition than what was depicted in the photos. He also states that the property was not near a boat ramp. Complainant states he asked his agent to send a release requesting return of his \$1,000.00 earnest money deposit, but the seller refused to sign the release.

Respondent's principal broker submitted a response on behalf of Respondent. He states that, on July 20, 2021, Complainant's agent submitted a 'sight unseen' offer without Complainant having visited the property. Complainant was living out-of-state at the time. The offer was for \$190,000, with no inspection, 30-day closing, conventional loan with 20% down. The sellers accepted and signed the offer on the same day. After the contract was bound, Complainant's agent made an appointment for Complainant to view the property on July 21, 2021. After viewing the property in person, Complainant's agent advised that Complainant wished to back out of the contract because the home needed too much work and the marina was not as close as pictures had led him to believe.

Respondent's broker states that all photos in the listing were taken on July 16, 2021, and were used in their original form. He states that interior of the home was in the exact condition as the photos represented. The listing did not mention whether the back of the home was newly painted or near a boat ramp/marina. Respondent's broker states this was most likely an assumption by the Complainant because there is a boat ramp about 0.2 miles away in the community according to Mapquest. The title company was the holder of the earnest money, and not the Respondent. The seller did not wish to sign the release because Complainant defaulted on the agreement, and the contract stated the earnest money would

be forfeited should buyer default. Respondent provided a copy of the listing and the purchase and sale agreement.

This appears to be a contract dispute matter between the Complainant and seller. Based on the information provided, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

44. 2021059081
Opened: 8/17/2021
First Licensed: 2/23/2015
Expires: 2/22/2023
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant purchased a home on December 30, 2020. Respondent represented Complainant in the transaction. Complainant alleges she was told that she would receive her paperwork in a couple of weeks. Complainant alleges that she has lived at the home since January of 2021 and has still not received her closing paperwork. Complainant alleges she recently had to pay to find the location of her septic tank and does not know if that location was in the closing paperwork.

Respondent submitted a response stating that all closing documents were promptly emailed to Complainant along with Complainant's access to everything she signed through Authentisign during the transaction. Respondent states that Complainant has copies of all documents. Respondent states that she also offers a hard copy of the closing documents as a courtesy. Respondent states the reason Complainant did not receive a hard copy at the closing was because the title company was not allowing agents to come to the closing at that time because of the pandemic. The buyer and seller had to remain in their cars and sign the closing documents.

Respondent states she reached out to Respondent numerous times to meet or drop off the hard copies. She states Complainant always said she was busy at the time and would get them later. Respondent offered to meet Complainant at her new home and drop them off, but Complainant declined. After three attempts, Respondent left it up to Complainant to let her know when she could bring them. Respondent provided a copy of the last conversation she had with Complainant, which was on January 29, 2021. Respondent tried to make arrangements to get the hard copies to her, but Complainant declined and stated she had not moved in yet. Respondent told Complainant to let her know whenever she wanted Respondent to drop off the hard copies, and Complainant thanked her.

Respondent states Complainant has had possession of all documents concerning the septic system, which were emailed to her by Respondent as well as the inspector. Complainant also had a copy of the septic drawing Respondent retrieved from the listen agent and TDEC showing the location of the tank, the subsurface sewage disposal system permit disclosure, along with the inspection testing report. Respondent states she and Complainant had also discussed this in detail.

Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission voted to issue a Letter of Instruction as to reasonable skill and care.

45. 2021056511
Opened: 8/17/2021
First Licensed: 10/28/2010
Expires: 10/27/2022
Type of License: Real Estate Firm
History: None

Complainant is a timeshare salesperson whose license has been retired. Respondent is an organization with whom Complainant was employed.

Complainant alleges she was an independent contractor employed by Respondent as a timeshare agent. In May of 2020, Complainant became concerned about exposure to COVID-19. She states it was agreed between her and management that she had decided to take time away during the pandemic. Complainant alleges Respondent terminated her employment in September of 2020 without giving her notice. She states she received a letter from the Commission indicating that she had been broker-released.

Respondent submitted a response stating that, at the beginning of the COVID-19 outbreak, Complainant expressed concerns with contracting the virus and was given some time off as a courtesy. She returned to work, however, on May 26, 2020. Respondent states that after working six hours, Complainant advised Respondent that she was afraid to work and never came back, abandoning her position without further approval or discussion from Respondent. When Complainant never returned, Respondent submitted a TREC1 form releasing the Complainant on September 28, 2020.

In an email submitted to her employer regarding her health concerns, Complainant acknowledges that her decision not to return could lead to her termination. Complainant's license was retired on November 16, 2020.

Complainant's complaints concerning termination and notification from her employer appear to be an employment/contract dispute matter between the parties and outside the jurisdiction of the Commission. Complainant has the option to pursue legal remedies if she believes she has been wrongfully terminated or that Respondent is in breach of contract. Based on the information provided, there is insufficient evidence that Respondent violated the Commission's rules or statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

46. 2021054241
Opened: 8/23/2021
First Licensed: 4/30/2013
Expires: 3/11/2022
Type of License: Principal Broker
History: 2018 Consent Order for Failure to Exercise Reasonable Skill and Care in Providing Services to all Parties in a Transaction

Complainant is a Tennessee resident. Respondent is a licensed principal broker.

Complainant alleges that he contacted a real estate agent on July 1, 2021, requesting to list his property. The agent is friend and business associate. Complainant's property was already listed, however, with Respondent. Complainant contends Respondent promised to release him from the listing agreement if he would pay for her photography. Complainant tried to give a \$200 check to a building guard who would not accept the money. Complainant wished to move forward on having the other agent list his property but was told by the agent that it could not be listed until released from the current agreement. Complainant and the friend/agent engaged in heated exchanges with Respondent about filing a complaint with the Commission because she did not release Complainant from the contract. Respondent stated that she did not receive any check and was not required to release the Complainant from the contract.

This is a contract dispute matter. Based on the information provided, there is insufficient evidence that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

47. 2021056541
Opened: 8/23/2021
Unlicensed
History: None

Complainant and Respondent are Tennessee residents.

Complainant alleges that Respondent is “working to sell other peoples[sic] property without a license.” No documentation or specific information was provided. Upon research, the address Complainant submitted for Respondent does not appear to be an actual physical address. The mail was unable to be delivered and was returned to sender.

Based on the information provided, there is insufficient evidence to establish a violation of Tenn. Code Ann. § 62-13-301 (unlicensed practice).

Recommendation: Close

Commission Decision: The Commission accepted counsel’s recommendation.

48. 2021057401
Opened: 8/23/2021
First Licensed: 8/6/2007
Expired: 8/5/2021
Type of License: Affiliate Broker
History: None

Complainant is a licensed Tennessee broker. Respondent is an affiliate broker whose license is currently in expired status. At the time of the incidents alleged in the complaint, Respondent’s license was retired.

Complainant alleges that Respondent entered into a contract to purchase a property from an owner. Complainant contends that Respondent misled the owner. Respondent was also given power of attorney to act on the owner’s behalf. The owner and Respondent appeared to have a dispute over the property, which resulted in the property being quitclaimed back to the owner. Complainant contends

Respondent submitted a response stating that the owner was a real estate investor, and the property at issue was in pre-foreclosure. The owner intended to let it go to auction, and Respondent made an offer to buy the property. The owner later changed her mind about selling the property, and Respondent agreed to transfer the property back in exchange for a return of the money. The parties ended up in a dispute about their agreements. Respondent states that when he purchased the property from the owner in 2020 and throughout all the transaction, he was not a licensed real estate agent nor acting as one.

Respondent was the buyer of the property at issue, and, therefore, this transaction is exempt pursuant to Tenn. Code Ann. § 62-13-1049(a)(1)(A). Moreover, this appears to be about contract disputes between the parties, and Respondent was not an active licensee at the time of the transactions. Based on the information provided, there is no evidence to establish a violation of the statutes or rules of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

49. 2021057651
Opened: 8/23/2021
First Licensed: 10/17/2002
Expires: 6/17/2023
Type of License: Real Estate Broker
History: 2015 Consent Order for Failure to Adequately Supervise an Affiliate

Complainant is a licensed real estate agent. Respondent is a licensed real estate broker.

Complainant contends his client was interested and submitted an offer on a property. Respondent represented the seller. Complainant alleges MLS indicated the listing was contingent. Complainant reached out to Respondent on July 28, 2021, while Respondent was on vacation. Complainant alleges Respondent declined a request through MLS for a showing and indicated via text that the seller had an agreement to sell the property and that he would check on the details when he returned from vacation on August 2. Complainant spoke to Respondent on the morning of August 2 about submitting a back up offer. Respondent said he was meeting with the seller at 3pm and would ask if she wanted one. Complainant sent a backup offer anyway after 1pm. Complainant states Respondent called after 3pm and said he had an executed contract. Complainant alleges that the backup offer should have been presented before the seller executed the contract.

Respondent submitted a response stating that the seller had an agreement in place with a buyer since July 26, 2021, to accept the offer that was executed. Respondent was out of town at that time for his son's graduation from Army Infantry officer's school, and the seller is 85 years old and did not have the internet or a computer. Respondent states no one from his office was available to go to the seller in person before he returned. His broker was undergoing chemo and had a seizure the week of July 26.

Respondent states that Complainant sent a backup offer less than two hours before his meeting with the seller while Respondent had gone to his farm and was on a tractor. He left the farm to drive straight the meeting with the seller. The farm did not have internet service. Respondent states he did not get the backup offer until after he left the meeting. Respondent states he drove out and brought the backup offer the next day when he was able to get back to the seller in person, and the seller accepted it as a backup. The next day Complainant told Respondent her clients were withdrawing the offer

Respondent arranged to transmit the backup offer in person in less than 24 hours to an elderly client with no computer or internet access, and the client executed it. Based on the information provided, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

50. 2021057661
Opened: 8/23/2021
First Licensed: 10/17/2002
Expires: 6/17/2023
Type of License: Real Estate Broker
History: 2015 Consent Order for Failure to Adequately Supervise an Affiliate

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

This Complainant is the buyer who submitted the backup offer in Case No. 2021057651 (No. 49) above. Complainant alleges Respondent committed fraud by failing to submit his backup offer when Respondent met with the seller on August 2, 2021.

Respondent arranged to transmit the backup offer in person in less than 24 hours to an elderly client with no computer or internet access, and the client executed it. Based on the information provided, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

51. 2021057981
Opened: 8/23/2021
First Licensed: 5/12/1987
Expires: 9/9/2021
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

This is a dispute over the amount of commission owed to the Respondent. Complainant alleges Respondent represented him in a lease purchase for 5% commission. He states the sale fell through, and the home was relisted with Respondent for 6% commission. When Complainant was unsatisfied with the offers, he states he took over selling the house again, and no new contract was signed. He states he entered into a new lease purchase agreement about June 20, 2020 and was informed by the closing agent that the commission was 6%. Complainant states this contract dispute matter is being litigated in chancery court, where the funds have been held since October 22, 2020. Complainant states he has not been able to get an attorney to help him.

Respondent's attorney submitted a response stating that there was an installment land contract whereby Complainant agreed to sell his home, and Respondent received a 5%

commission. The buyer fell behind on her payments, and the house was relisted for a standard 6% commission to be split between buyer and seller's agent. The sale closed, and Complainant signed the settlement statement at 6% commission. Due to disputes between multiple parties following the closing, the closing company filed an interpleader action and tendered Respondent's commission with the chancery court. Respondent filed a counter-suit against various people involved in the transaction for interference with her ability to obtain the commission. The chancery court is holding the funds. Respondent's attorney states Complainant did not dispute the commission until recently, and the issue as to the appropriate amount will be decided by the court at an upcoming hearing.

This is a contract dispute matter. The chancery court has jurisdiction over the determination of the appropriate commission amount. Based on the information provided, it does not appear that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

52. 2021058001
Opened: 8/23/2021
First Licensed: 7/31/1986
Expires: 6/30/2023
Type of License: Real Estate Broker
History: None

Complainant and Respondent are licensed real estate agents. Complainant represented a buyer in a transaction, and Respondent represented the seller.

Complainant alleges she submitted an offer on a property on July 19, 2021, at 10:00 p.m. She states the next morning Respondent told her she had received Complainant's offer and she also had another offer for cash. Complainant states her client's offer was \$475,000, approximately \$15,000 over the asking price with no appraisal and a 21-day closing. Complainant states Respondent inquired about the buyer's ability to pay \$15,000 over the asking price if the property did not appraise for \$475,000. Complainant states Respondent inquired about proof of the buyer's ability to pay the additional \$15,000, and Complainant provided a bank statement showing \$21,000 in the account. Complainant states that Respondent had concerns, and Complainant states she provided proof the buyer had funds in another account. Complainant received an email that evening stating the seller went with the other offer. Complainant is concerned that Respondent inquired about the buyer's ability to pay.

Respondent submitted a response stating that the sellers reviewed the offer and had questions about the provision that buyer would pay 4% down and 96% through conventional loan. They requested Respondent follow up and ask for proof of down payment as well as a prequalification letter. Respondent states the proof of funds referenced a trucking firm and not the buyer, and the numbers in the prequalification letter indicated

nothing had been verified. Respondent states neither document made the sellers comfortable. Additionally, the offer was for a 21-day closing. Respondent states the sellers chose to accept another offer that reflected their wishes for continued occupancy as well as a more secure closing.

Based on the information provided, it does not appear that Respondent violated any rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

53. 2021058401
Opened: 8/23/2021
First Licensed: 5/1/2006
Expires: 4/30/2022
Type of License: Affiliate Broker
History: None

Complainant is an out-of-state broker. Respondent is a licensed affiliate broker.

Complainant alleges that Respondent was engaged in broker activity while unlicensed. Complainant submitted a copy of a purchase and sale agreement dated August 2, 2021, in which Respondent is designated as the listing licensee.

Respondent's principal broker submitted a response stating that the firm's E&O insurance provider did not forward the proof of their coverage. Upon realizing their status had changed, the principal broker states they immediately provided the proof of coverage and were returned to active status.

It appears that Respondent's license was suspended on January 29, 2021 and remained inactive until August 4, 2021. Therefore, Counsel recommends a civil penalty in the amount of \$1,000.00 for engaging in unlicensed activity in violation of Tenn. Code Ann. § 62-13-301.

Recommendation: Authorize a \$1,000.00 civil penalty for unlicensed activity in violation of Tenn. Code Ann. § 62-13-301.

Commission Decision: The Commission accepted counsel's recommendation.

54. 2021058681
Opened: 8/23/2021
First Licensed: 6/14/2017
Expires: 6/13/2023

Type of License: Affiliate Broker
History: None

Complainant is an out-of-state resident. Respondent is a licensed affiliate broker.

On January 16, 2021, Complainant signed an Exclusive Buyer Representation Agreement with Respondent's firm with Respondent as designated agent. The agreement is for a one-year term with a 120-day carry-over clause. Complainant wishes to be released from the agreement. Complainant states she lost her job in March of 2021, which prevented her from moving forward on a home purchase. Complainant states she spoke to two loan officers at Respondent's behest and feels she was misled as a first-time homebuyer because the loan was not granted. Complainant contacted another agent at Respondent's firm to request release from the agreement. Complainant alleges the other agent added 120 days to the agreement.

Respondent submitted a response stating that Complainant contacted her about credit repair in order to purchase her first home. She began credit repair on May 18, 2020. Respondent began sending her listings via email on August 11, 2020. Complainant came to Tennessee on August 30, 2020, and Respondent showed her homes in person and helped her with a place to stay. Complainant and Respondent stayed in touch, and Respondent sent Complainant listings as her credit scores rose.

On January 11, 2021, Complainant found a home that she wanted and asked Respondent to move forward on it. Respondent advised the home was a new build with a completion month of April of 2021. Complainant asked if Respondent would pay the \$1,000.00 earnest money deposit, and Respondent declined. On January 16, 2021, Complainant signed a contract for the property and the buyers representation agreement. Respondent referred Complainant to two different lenders to assist in answering all of her questions. On February 1, Respondent sent her information on what the lender needed from her. On February 24, Respondent followed up to see how the loan was going. On March 23, Respondent tried to follow up again with Complainant. On March 26, Complainant responded that she had lost her job and could not move forward. Respondent sent a release for Complainant to receive her earnest funds, which were held by the seller's agent. Respondent states she was in disbelief when Complainant requested a release. Respondent declined to release Complainant. Respondent provided a copy of the agreement.

This is a contract dispute matter. Based on the information provided, there is no evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

55. 2021059051
Opened: 8/23/2021
First Licensed: 8/12/2004

Expires: 10/5/2021
Type of License: Affiliate Broker
History: None

Complainant is an out-of-state resident. Respondent is a licensed affiliate broker.

This is the companion case to No. 2021058681 above. Respondent is the broker Complainant approached about release from the buyers representation agreement. Respondent states Complainant contacted her via the firm website about release from the agreement. Respondent states that after the lengths of customer service Complainant's designated agent had gone through to assist her in purchasing a home, the firm declined to release Complainant from the agreement. Respondent states that she did not extend the agreement by 120 days, but that the agreement contained a 120 day carry-over clause, which Respondent merely noted. Respondent states Complainant did not wish to work with another agent. Respondent states the agent encouraged Complainant to obtain financing per the contract timelines in the purchase and sale agreement, and that the goal at all times was to ensure Complainant was pursuing the home with honesty and good faith as outlined in the financial contingency section of the agreement. Respondent states the firm has gone above and beyond in delivering customer service to Complainant.

This is a contract dispute matter. Based on the information provided, there is no evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

56. 2021059661
Opened: 8/30/2021
First Licensed: 5/10/1991
Expires: 3/15/2021
Type of License: Principal Broker
History: 2021 Errors and Omissions Suspension

Complainant is a Tennessee resident. Respondent is a principal broker whose license is suspended and expired.

Complainant is the president of a Home Owners Association ("HOA"). Complainant submitted a complaint on behalf of the HOA alleging that Respondent pled guilty in state court to charges of money laundering and theft over \$60,000.00 related to the HOA's 2014-2015 accounts. Complainant acknowledges that Respondent is not currently licensed. He requests that her record be flagged for purposes of renewal.

Respondent's attorney submitted a response on Respondent's behalf stating that Respondent did not plead guilty to either charge. He states the charges were reduced to one charge of theft over \$10,000, and Respondent was allowed to enter a deferred guilty plea

and placed on probation. Respondent's attorney states that, under terms of Respondent's plea deal, this is not considered accepted as a guilty plea by the court. The court defers the acceptance of the plea to allow Respondent to complete probation. If Respondent completes the terms of her probation, she can then have the charge dismissed and expunged without ever having pled guilty. Respondent provided a copy of the criminal court judgment showing dismissal of the money laundering charge and the order of deferral on the theft charge.

Respondent's license was suspended on January 29, 2021, for failure to hold errors and omissions insurance. Respondent's license expired on March 15, 2021. Respondent has not sought renewal. Because Respondent is not a licensee, counsel recommends this matter be closed at this time and flagged in the event Respondent seeks to renew.

Recommendation: Close and flag

Commission Decision: The Commission accepted counsel's recommendation.

57. 2021060011
Opened: 8/30/2021
First Licensed: 11/7/2007
Expires: 11/6/2021
Type of License: Affiliate Broker
History: 2015 Consent Order for allegedly claiming to be the listing agent of properties not listed

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant was approached by an acquaintance about selling her home. Complainant and the buyer negotiated the terms of the sale. Complainant contends the paperwork was drawn up by Respondent. She claims Respondent represented herself as a "contract generator" and did not disclose that she represented the buyer's interests. Complainant contends the contract, which she signed, did not include the terms Complainant agreed on with the buyer. Complainant alleges there should have been an "as is" addendum. She states she asked Respondent for a copy of the contract and was not provide an "as is" addendum. Complainant alleges that when the buyer's inspector came to her home, her roof began to leak. Complainant alleges the inspector intentionally damaged her home in order to decrease the price for the buyer.

Respondent submitted a response stating that she was hired by the buyer to write up paperwork for the sale after Complainant and the buyer had negotiated everything. The buyer told the Respondent they had agreed on the price, contingent on home inspection, financing, appraisal. Respondent drafted all of the documents and sent it out for signatures. After Complainant signed, the buyer contacted Respondent and stated they had also agreed that the seller would make no repairs and the buyers would return the house to the original condition if financing fell through. Respondent drafted the addendum with those terms and the parties signed. Respondent stated that Complainant received an electronic copy of

everything she signed. Respondent also scanned and emailed all pdf copies to the parties after Complainant stated she had trouble with the signed copies. Respondent states there was no “as is” addendum, and she wrote up the documents as she was told by her client, all of which Complainant signed.

Respondent provided a copy of the signed documents, which included a Confirmation of Agency Status, signed by Complainant, which stated that Respondent was designated agent for the buyer and Complainant was unrepresented. Respondent states she did not hire the inspector nor have any contact with him.

Based on the information provided, it does not appear Respondent has violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel’s recommendation.

58. 2021060081
Opened: 8/30/2021
First Licensed: 8/4/2006
Expires: 8/3/2022
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant entered into a contract to purchase a home on April 10, 2021. The closing was set for May 10. Respondent represented the seller. Complainant alleges she told Respondent that she was going to obtain an equity line of credit from her current home and that the process might take longer than 30 days. Complainant alleges Respondent told her the seller would work with her. Complainant contends that on July 8, 2021, she emailed the escrow processor to inform them that the bank said she could close on the house that week if she could get an inspection. Complainant alleges Respondent refused to allow access for the inspection, put a sale sign on the house, and scheduled it for auction on July 24, 2021. Complainant alleges she received a letter from an attorney demanding \$15,000.00 for breach of contract. Complainant believes Respondent should be liable for breach of contract because he put the property on the market while Complainant was trying to buy it.

Respondent submitted a response stating that the transaction was a real estate auction, not a traditional listing. Real estate auctions have specific terms and conditions the buyer must abide by. Respondent states Complainant registered online on his company’ online bidding website and agreed to the terms and conditions for the real estate auction as well as additional user terms. Respondent provided a copy of agreements. Respondent states he represented the seller and did not have any agency relationship with Complainant in the transaction.

On April 10, 2021, Complainant was the winning bidder at the auction and signed an auction purchase contract with an agreement to close on the home by May 10, 2021. The contract, which Respondent provided, stated that the property was being sold 'as is' and was not contingent on financing, appraisal, or inspections. It states that the buyer has inspected the property and purchased solely as a result of that inspection and there are no warranties or representations. On May 10, 2021, neither Respondent nor the title company had received any communication from Complainant. Respondent states he called and explained to Complainant that was the closing day, and Complainant stated she was waiting on an appraisal. Respondent explained there was no appraisal, financing, or inspection contingency. No extension was requested. The seller closed on May 10. On June 2, 2021, when Complainant still had not closed, Respondent explained that if she did not close, the house would have to be put back up for auction pursuant to the contract. Complainant stopped communicating and responding to Respondent at that point.

On July 7, when the title company advised Respondent about hearing from Complainant, Respondent advised the title company that he would cancel the upcoming auction but they could not have a home inspection because the home was sold 'as is.' Complainant never reached out again nor scheduled a closing date. The home was sold at auction a second time on July 24. Respondent turned the contract dispute issue over to an attorney on July 7.

This appears to be a contract dispute between the parties. Based on the information provided, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

59. 2021060861
Opened: 8/30/2021
First Licensed: 9/24/2018
Expires: 9/23/2022
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker.

Complainant is the owner of a rental cabin. Complainant decided to sell her cabin but did not wish to list it. She contends that Respondent and his wife (also an affiliate broker) assisted Complainant in finding a buyer and selling her cabin. Complainant wished to finish the paint job for the cabin but did not want to hire any Latino people because she had an experience with a Latino painter who made a mess and arrived intoxicated. When Respondent had suggested the painter he used (who was Latino), Complainant states she agreed to let the Latino person have a shot. Complainant alleges that the painter asked her

if she was single and offered to take her out for drinks. Complainant said she complained to Respondent about the painter's behavior. She alleges Respondent made a comment about her attire, which Complainant found hypocritical because she states Respondent's wife wears "Daisy Dukes." Complainant became increasingly unhappy with the painter and states he took too long to complete the work. Complainant and the painter got into a dispute about payment for the work, and the painter kept requesting to be paid.

Complainant alleges that Respondent and his wife hounded her about signing an amendment for the closing date and moving her belongings out of the cabin on time. Complainant got into several verbal disputes with Respondent. Complainant did sign the amendment but scribbled notes, edits, and comments all over the documents, such as "Bring it on!!!!" Complainant became increasingly upset with the transaction and apparently got into a screaming match, which resulted in police being called and what Complainant describes as a "swat team."

Respondent and his wife submitted a response stating that Complainant engaged them to sell her investment property which was being used as an overnight cabin. Complainant did not wish to list it but asked them to find a buyer. Respondent and his wife signed an Agreement to Show Property and found a buyer. Respondent and his wife acted in the role of facilitators for the transaction. Respondent states that Complainant asked for a two-week extension to the closing date, and the buyer agreed. Complainant failed to alert the property management company that she was selling the property and did not make arrangements to be ready for the closing. Respondent states that Complainant then asked for the closing to be delayed an additional month, but the buyer did not agree. Respondent states Complainant became very angry and belligerent when the buyer did not agree. Respondent alleges Complainant verbally attacked them. Complainant showed up unannounced at the office and harassed employees, making racist and derogatory comments. Complainant declared she would not sell the property and would not be closing. Respondent and his wife advised Complainant that was her decision and advised her to consult with a lawyer about the legal ramifications. Respondent states Complainant did end up keeping the appointment with the title company on the closing date but continued to be verbally abusive and belligerent. Complainant threw papers around and made various threats. Respondent states that they sold Complainant's cabin in accordance with the terms of the contract and there is no merit to Complainant's claims.

Based on the information provided, there appears to be insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

60. 2021060911
Opened: 8/30/2021
First Licensed: 3/19/2015
Expires: 3/18/2023

Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. This is the companion case to Case No. 2021060861 above.

Complainant is the owner of a rental cabin. Complainant decided to sell her cabin but did not wish to list it. She contends that Respondent and her husband (also an affiliate broker) assisted Complainant in finding a buyer and selling her cabin. Complainant wished to finish the paint job for the cabin but did not want to hire any Latino people because she had an experience with a Latino painter who made a mess and arrived intoxicated. When Respondent's husband had suggested a painter he used (who was Latino), Complainant states she agreed to let the Latino person have a shot. Complainant alleges that the painter asked her if she was single and offered to take her out for drinks. Complainant said she complained to Respondent's husband about the painter's behavior. She alleges Respondent's husband made a comment about her attire, which Complainant found hypocritical because Respondent wears "Daisy Dukes." Complainant became increasingly unhappy with the painter and states he took too long to complete the work. Complainant and the painter got into a dispute about payment for the work, and the painter kept requesting to be paid.

Complainant alleges that Respondent and her husband hounded her about signing an amendment for the closing date and moving her belongings out of the cabin on time. Complainant got into verbal disputes with Respondent. Complainant did sign the amendment but scribbled notes, edits, and comments all over the documents, such as "Bring it on!!!" Complainant became increasingly upset with the transaction and apparently got into a screaming match, which resulted in police being called, which Complainant describes as a "swat team."

Respondent and her husband submitted a response stating that Complainant engaged them to sell her investment property which was being used as an overnight cabin. Complainant did not wish to list it but asked them to find a buyer. Respondent and her husband signed an Agreement to Show Property and found a buyer. They acted in the role of facilitators for the transaction. Respondent states that Complainant asked for a two-week extension to the closing date, and the buyer agreed. Complainant failed to alert the property management company that she was selling the property and did not make arrangements to be ready for the closing. Respondent states that Complainant then asked for the closing to be delayed an additional month, but the buyer did not agree. Respondent states Complainant became very angry and belligerent when the buyer did not agree. Respondent alleges Complainant verbally attacked them. Complainant showed up unannounced at the office and harassed employees, making racist and derogatory comments. Complainant declared she would not sell the property and would not be closing. Respondent and his wife advised Complainant that was her decision and advised her to consult with a lawyer about the legal ramifications. Respondent states Complainant did end up keeping the appointment with the title company on the closing date but continued to be verbally abusive and belligerent. Complainant threw papers around and made various threats. Respondent states

that they sold Complainant's cabin in accordance with the terms of the contract and there is no merit to Complainant's claims.

Based on the information provided, there appears to be insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

61. 2021061161
Opened: 8/30/2021
First Licensed: 9/20/2012
Expires: 9/19/2022
Type of License: Affiliate Broker
History: None

Complainant is anonymous. Respondent is a licensed affiliate broker.

Complainant submitted a copy of an advertisement Respondent posted on Facebook that states: "1% Listing Fee. Contact [Respondent] Today! Are You Tired of Overpaying Realtors?" Under the advertisement post, Respondent states "[g]enerally it's a total of 6% from the sellers[sic] equity. Split up that's 3% for the listing agent and 3% for the buyers[sic] agent." Respondent states that he reduces his commission to 1% as the listing agent and offers 2% to the selling agent. Respondent states this would save the seller 3% of the purchase price in agent commissions, and, if Respondent or the seller find the buyer, the seller will save more. Complainant alleges the posts are misleading the public.

Respondent submitted a response stating his post explained his rates and how he can save the clients money. He explained "generally" how the commission savings work in most cases. Respondent denies any misleading advertising. Respondent's principal broker also submitted a response stating he approved of Respondent's post. Respondent is offering to list properties for 1% listing side commission and is offering 2% to the selling agent. Respondent's broker states discounted commissions are common now.

Based on the information provided, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

62. 2021055541
Opened: 8/30/2021
Unlicensed
History: None

Complainant is a Tennessee resident. Respondent is a foreign limited liability company.

Complainant is the resident of an apartment complex. Complainant is involved in a lease dispute. He contends that Respondent has allowed contractors to enter his home without adequate notice, and that painters have damaged his rug and caused his apartment to smell like paint thinner. Complainant states that Respondent is the property management owner and conducting business as an apartment complex without a license. Respondent is the owner/landlord of the apartment complex at issue.

Based on the information provided, there is insufficient evidence that Respondent is engaged in unlicensed activity.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

63. 2021050581
Opened: 8/17/2021
Unlicensed
History: None

Complainant is a Tennessee resident. Respondent is a timeshare vacation resort in North Carolina. Complainant asks for the Commission's assistance in being released from their timeshare agreement. They have reached out to the General Manager and were informed there were no options available from the HOA at the moment. Complainant was satisfied for several years but states the quality of property maintenance care went down. Complainant does not wish to pass on the timeshare purchase to his children because of the rising fees that go along with it.

Respondent submitted a response stating that Complainant is seeking to terminate his deeded timeshare unit back to the HOA, but the HOA is not taking back any deeds at this time. In 2017, the HOA offered all owners a buy back option, which included an immediate, five-year, or ten-year exit. Respondent states the HOA may offer another exit program in the future, but that has not been determined. Respondent states Complainant has not paid maintenance fees since 2017.

Neither the Respondent entity nor the timeshare unit is located in Tennessee. There is no allegation or indication in the complaint that Respondent engaged in any activity in Tennessee that is governed by the Commission's rules or statutes. Therefore, the matter is outside the Commission's jurisdiction. Moreover, this is solely a contractual dispute issue.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

Chairman John Griess adjourned the meeting at 12:00 P.M. EST