IN THE STATE OF MISSISSIPPI
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISS. REAL ESTATE COMM. **COMPLAINANT**

Vs. **# 033-1805**

DEBORAH IVY, BROKER
KAREN GODFREY, BROKER **RESPONDENTS**

AGREED ORDER

This cause came before the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to the authority of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, on a Complaint against Deborah Ivy, Broker, and Karen Godfrey, Broker, and the Commission was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their right to a full hearing and their right to appeal to the circuit court. The Commission, then, does hereby find and order the following:

1.

Respondent Deborah Ivy, Broker, sometimes hereinafter "Respondent" or "Ivy," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 701 Whitaker Street, Post Office Box 2292, Clinton, MS 39056. Respondent Ivy is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §73-35-1, et seq., as amended and, as such, she is subject to the provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law. At all times relevant to this Complaint, Respondent Ivy was the principal and responsible broker for Godfrey & Ivy Realty, Inc. and Broker Associate Karen Godfrey.

II.

Respondent Karen Godfrey, Broker Associate, sometimes hereinafter "Respondent" or "Godfrey," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 701 Whitaker Street, Post Office Box 2292, Clinton, Mississippi 39056. Respondent Godfrey is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §73-35-1, et seq., as amended and, as such, she is subject to all of the provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law.

III.

On or about May 23, 2018, the Commission received a sworn complaint from Richard and Henrietta Middleton (sometimes hereinafter "Complainants" or, collectively, "Middletons"). The Middletons complained that they had purchased Lot 17, Pine Lea Drive, Jackson, Mississippi 39209 with the expressed purpose of locating, and living in their RV (recreational vehicle) while in the Jackson area. To locate and purchase the lot, they engaged Cheryl Russell as buyers' agent. The transaction closed on or about April 17, 2017.

IV.

The Middletons complained that their agent, Cheryl Russell, had inquired of the listing agent, Respondent Karen Godfrey, regarding their intent to place their RV on the property and claims they discussed living in the RV with the sellers and sellers' agent Godfrey before and during closing on the property. The Middletons claim they were told they could place the RV on the property if it was placed in the back of the property. The Middletons complained there was a camper located on the lot directly across from the property which had been lived in for some time, but which was then unoccupied.

V.

After closing, the Middletons incurred expenses to prepare the site for their RV including driveway/culvert work and installation of a concrete pad and septic system. Subsequently, the Middletons were informed by a director of the Hinds County Zoning & Permit office that, while they did not need a permit for the work they were completing, they would not be allowed to live in their RV on the property because it was zoned R-1 residential.

VI.

Upon complaint with their buyers' agent Russell, Russell confirmed to the Middletons that she had discussed the issue repeatedly with the sellers and their agent, Respondent Godfrey, prior to and at closing, and had been informed there was no problem with an RV if it was parked in the back and not close to the street. The Middletons alleged they had been misled in the transaction.

VII.

Upon initiation of a Commission investigation regarding the Middletons' sworn complaint, documents and responses were received from Respondents Godfrey and Ivy. Respondent Karen Godfrey denied ever telling the Middletons or their agent Russell that it would be acceptable for the Middletons to live in an RV on the subject property. Godfrey stated she had been asked by many people about putting a mobile home on the property and always responded that mobile homes are not allowed.

VIII.

Godfrey's responsible broker, Respondent Deborah Ivy, stated that the IVILS (Multiple Listing Service) record for the property clearly reflected the existence of restrictions on use of the property, including a prohibition on mobile homes. Documents obtained during the Commission investigation reflect that Respondents Godfrey and Ivy have "continuously listed and sold our lots on Pine Lea [Drive] since 12/17/13" for the same sellers who sold the subject property to the Middletons. The Commission obtained a copy of the 1980 Protective Covenants for the Pine Lea subdivision which provide that "...motor homes ...may be parked only to the rear of the main residence on any lot." Neither Respondent addressed the issue of the vacant camper on the lot across from the subject property that had been allegedly lived in previously.

XI.

A Commission Investigator inquired of the Middletons' buyers' agent, Russell, regarding whether the applicable Protective Covenants were provided to or discussed with the Middletons before or at closing. Russell replied that neither the covenants nor restrictions were discussed or provided to her. Russell reaffirmed that she had discussed with Respondent Godfrey the issue of placing the Middletons' RV on the subject property.

X.

During the Commission investigation, Respondent Ivy was requested to submit a copy of the listing agreement for the subject property. Ivy submitted a copy of a listing agreement that had expired by its own terms on October 21, 2014. At the same time, Ivy submitted an undated, handwritten document purported to be an extension of the listing agreement, but which was not in conformity with Commission rules. A copy of the sales contract for the subject property was obtained which did not identify the listing brokerage as required by Commission rules.

XI.

The above and foregoing described acts and omissions of Respondents constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, §73-35-1, et seq., Miss. Code Ann., and the Rules and Regulations of the Commission, and, more specifically, §73-35-21(a) and (n), and Rules 3. 1 A, and 3.2 C, which provide, in relevant parts:

§73-35-21 (1). The commission shall have full power to revoke or suspend a license where the licensee in performing or attempting to perform any of the acts mentioned herein is deemed guilty of:

(a) Making any substantial misrepresentation in connection with a real estate transaction;

(b) Making any false promises of a character likely to influence, persuade or induce;

(n) Any act or conduct, whether of the same or a different character that hereinabove specified, which constitutes or demonstrates . . .dishonest or improper dealing...

Rule 3.1 A It shall be the duty of the responsible broker to instruct the licensees licensed under that broker in the fundamentals of real estate practice, ethics of the profession and the Mississippi Real Estate License Law and to exercise supervision of their real estate activities for which a license is required.

Rule 3.2 C All exclusive listing agreements shall be in writing, properly identify the property to be sold, and contain all of the terms and conditions under which the transaction is to be consummated; including the sales price, the considerations to be paid, the signature of all parties to the agreement, and a definite date of expiration...

DISCIPLINARY ORDER

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

As to Deborah Ivy, Broker, the Commission orders that her license incur a one (1) month suspension, beginning March 01, 2019 but held in abeyance, and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first sixty (60) days after this Respondent signs this order. All courses must be those already approved by the Commission prior to being taken and be administered by a Mississippi approved CE provider in a classroom setting (not online). This mandatory continuing education would be in addition to any other continuing education previously taken as well as any required for renewal of her license and, further, cannot be the same continuing education courses from the same provider previously completed for the renewal of her license during the last two (2) renewal periods. Written evidence of satisfactory completion of the courses shall be promptly furnished to the Commission.

As to Karen Godfrey, Broker, the Commission orders that her license incur a one (1) month suspension, beginning March 01, 2019 but held in abeyance, and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first sixty (60) days after this Respondent signs this order. All courses must be those already approved by the Commission prior to being taken and be administered by a Mississippi approved CE provider in a classroom setting (not online). This mandatory continuing education would be in addition to any other continuing education previously taken as well as any required for renewal of her license and, further, cannot be the same continuing education courses from the same provider previously completed for the renewal of her license during the last two (2) renewal periods. Written evidence of satisfactory completion of the courses shall be promptly furnished to the Commission.

SO FOUND AND ORDERED this the 1ST day of MARCH, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY: _____
ROBERT E. PRAYTOR, Administrator

AGREED: _____ DATE: 2/26/19
Deborah Ivy, Broker

AGREED: _____ DATE: 2/26/19
Karen Godfrey, Broker