

**IN THE STATE OF MISSISSIPPI
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 027-1804

JAY EDWARD SCHROEDER, PRINCIPAL BROKER;

MARIE SCHROEDER, BROKER ASSOCIATE; and

**SCHROEDER REAL ESTATE
& INVESTMENT, LLC (Inactive)**

RESPONDENTS

COMPLAINT

COMES NOW the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to authority of §§73-35-1, *et seq.*, Miss Code Ann. (1972) as amended, and files this Complaint against Jay Edward Schroeder, Broker, Marie Schroeder, Broker Associate, and Schroeder Real Estate Investment, LLC and assigns as grounds the following:

I.

Respondent, Jay Edward Schroeder, sometimes hereinafter "Respondent" or "Jay Schroeder," is an adult resident citizen of the State of Mississippi whose last known address of record with the Commission is 520 E. Pass Road, Ste. N, Gulfport, MS 39507. Jay Schroeder has been the owner and responsible broker for Schroeder Real Estate and Investment, LLC. Respondent Jay Schroeder is the holder of a real estate

broker's license issued by the Commission pursuant to §§73-35-1, *et seq.*, M. C. A. (1972), as amended, and, as such, he is subject to the provisions, rules, regulations and statutes governing the licensing, sale and management of real estate under Mississippi law.

II.

Respondent, Marie Schroeder, sometimes hereinafter "Respondent" or "Marie Schroeder," is an adult resident citizen of the State of Mississippi whose last known address of record with the Commission is 520 E. Pass Road, Ste. N, Gulfport, MS 39507. Marie Schroeder is a broker associate for Schroeder Real Estate and Investment, LLC. Respondent Marie Schroeder is the holder of a real estate broker's license issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, as such, she is subject to the provisions, rules, regulations and statutes governing the licensing, sale and management of real estate under Mississippi law.

III.

Respondent, Schroeder Real Estate and Investment, LLC, sometimes hereinafter "Respondent Investment" was a Mississippi limited liability company with its principal place of business at 520 E. Pass Road, Ste. N, Gulfport, MS 39507. Respondent Investment was a real estate company with license issued by the Commission pursuant to §§73-35-1, *et seq.*, M. C. A. (1972), as amended, and, as such, it was subject to the provisions, rules, regulations and statutes governing the licensing, sale and management of real estate under Mississippi law. At all times relevant to the allegations in this Complaint, Jay Schroeder was the owner and responsible broker for Respondent Schroeder Real Estate and Investment, LLC. However, said LLC was administratively dissolved by the MS Secretary

of State on April 15, 2005. Notwithstanding that, the Respondents continued to operate said LLC in Mississippi. The company license for said LLC was placed on inactive status in November of 2017 after said company license was returned to the Commission without instructions . Before that, on January 01, 2017, Schroeder Real Estate Management, LLC became registered with the MS Secretary of State, with Respondent Jay Schroeder as sole member. A real estate company license was issued, with Jay Schroeder as Principal Broker and Marie Schroeder as a licensee under that company now, along with two other licensees.

IV.

On or about April 16, 2018, the Commission received a sworn complaint from Lisa Yearwood, sometimes hereinafter "Yearwood." Since 2005, Respondents had managed rental properties owned by Yearwood's father, Fred Wagner, in Hancock County, MS. The Respondents were to be sending rental proceeds every quarter. Yearwood had taken over these properties after failing health in Fred Wagner. Among other complaints, Yearwood had concerns that she had not received any net rental income since October of 2016. On September 13, 2018, Lisa Yearwood sent in a copy of a letter her father had written Jay Schroeder in February of 2013. The letter was about Schroeder failing to forward rental checks to him in a timely manner. The letter said in part, "For some reason I do not understand, no rent checks have been sent to me from you in all of 2012 (or so far in 2013). I have tried by phone and mail to discuss this with you and/or Marie without success."

V.

The verbal arrangement between Mr. Wagner and Respondent Jay Schroeder was for Schroeder to send the proceeds from rent collections every three months on properties located at 401 Ulman Avenue and 342 Main Street in Bay St. Louis, Mississippi. Yearwood enclosed an email she sent to the Respondents on 2/8/2018 wherein she stated she had not received any rental proceeds since October of 2016 and issued a demand for the outstanding funds (rental receipts). She went on to state that this email was ignored. She wrote the Respondents again and that correspondence was also ignored. Yearwood contacted an attorney who in turn contacted the Respondents and they told him the checks had been disbursed to the owner's accountant. The attorney then contacted the accountants for Yearwood (Wright, Ward, Hatten & Guel in Gulfport, Mississippi) for verification and learned that they had not received the rental payments. Yearwood drove to the Respondents' office to collect the past-due rents and received a check in the amount of \$31,000; an amount still three months short of full payment owed.

VI.

On May 22, 2018 an email from the Respondents was received that stated lease agreements and WWREB forms for three rentals were attached. The Respondents were unable to provide a Property Management Agreement or WWREB for Mr. Wagner because an agreement was never executed. Attached was a residential lease agreement dated May 30th, 2007 between Schroeder Real Estate and Brent Mosely for the address at 401-A Ulman Avenue in Bay St. Louis, MS. This agreement was signed and dated the same day, along with a WWREB which was signed and dated the same day as well. The WWREB had the Client- Landlord's agent box checked. The tenant had signed on the Client line, instead of the Customer line. There was another lease agreement with lessee Vincenzo Mistretta for 401-B Ulman Ave. The line on the lease agreement stating

what date the agreement was entered into was blank. The last page contained what appeared to be Mistretta's and Marie Schroeder's signatures but no dates to indicate when this document was finalized. There was a WWREB containing the signatures of Mistretta and Marie Schroeder dated July 17, 2015. This form had the box checked as Client-Landlord's agent. The tenant had signed on the Client line, instead of the Customer line. The lease agreement for the property at 342 Main Street in Bay St. Louis was finalized on June 1, 2010 between Schroeder Real Estate and Sara Jackson. The term of this lease was for the period from June 1, 2010 through June 30, 2011. This agreement was signed and dated by both parties. The WWREB for this transaction was signed and dated June 1, 2010. This form also had the Client-Landlord's agent box checked. Again, the tenant signed on the Client line, instead of the Customer line.

VII.

Included in the complaint was Yearwood's statement concerning the lack of any real property management on the rental units. One tenant, Sara Jackson, had contacted Yearwood several times stating that the Schroeders failed to respond to requests for maintenance. Jackson further complained of a hole in the bathroom floor for months, an exterior door which could not be secured, and issues with rodents.

VIII.

During the Commission investigation, Respondents were far less than diligent in providing responses to Yearwood's allegations and requests from the Commission for documentation, contrary to MREC Rule 3.1F. Late responses from the Respondents were not specific to the request from the Commission, financial documents were self-generated, and not documents prepared in the normal course of business.

A letter from MREC was addressed to Jay Schroeder and mailed to him along with a copy of Yearwood's sworn complaint and the correspondence from the MREC contained specific instructions about responding to the complaint. Among those instructions was direction for a response within 10 days and to include written statements specifically addressing the allegations in the complaint. Respondent Jay Schroeder was also directed to include a signed, notarized affidavit indicating that he was submitting all documents involving the property management activities on the residential properties in question. The letter was mailed from the MREC offices on April 16, 2018. **None of the requested documents or signed affidavits were included in this initial response. No affidavits from either Jay or Marie Schroeder were ever submitted to MREC during the course of this investigation.**

IX.

When the Respondents' response was received, by email May 18, 2018, it was only a letter signed by Respondent Marie Schroeder. This letter stated that the Respondents had been managing Mr. Wagner's properties since 2005 and that they had been sending his rent checks on a quarterly basis. Yearwood had requested the checks be mailed directly to her accountants the end of 2016. Respondent Marie Schroeder claimed that the email Yearwood sent her, dated 2/8/2018 and sent to marie@schroederproperties.com was not received. Marie said that her email address had changed prior to that time. **It should be noted, however, that the email address attributed by Marie Schroeder is the same address provided to MREC as a means of direct contact. Additionally, documents later provided by Yearwood to the MREC indicated Yearwood had sent an email to Marie dated September 20, 2016 and it was sent to the same email address. Marie replied from that email address an hour later.**

X.

Respondents have now admitted that they have been far less than forthcoming in communications and responses to the Commission. The complaint from Yearwood was that the Respondents failed to disburse rental checks from October 2016 until Yearwood physically went to the office to pick them up in February of 2018. The question asked of the Respondents was "did they issue any rental proceeds during this time frame?" The Respondents reply was yes, they did issue proceeds during that time frame to the owner via the owner's accountant. Attached was a check register that included the check numbers, the issue dates, and the amount of each check. They were issued on the following dates:

2/28/2017, check # 18758 in the amount of \$10,893.95.

5/9/2017, check# 18924 in the amount of \$2,430.00.

07/18/2017, check# 18939 in the amount of \$2,056.50.

9/10/2017, check# 19247 was made out in what seems to be three separate amounts: \$1,849.75, \$2,003.70, and \$1,903.70.

12/31/2017, check #19514 also was made out in three different amounts: \$2,808.37, \$3,075.90, and \$3,175.90.

Each check register page that showed these checks being issued also showed each check being voided the same day.

XI.

At all relevant times herein, Respondents Jay and Marie Schroeder, individually and as owner and brokers for Schroeder Real Estate Management, LLC, held out as qualified to do the business of a real estate broker as defined in Miss. Code Ann. §73-35-1, *et seq.*, including the attendant responsibilities thereof.

XII.

As responsible broker for Schroeder Real Estate Management, and its licensees, Respondent Jay Schroeder is responsible for each act or omission of the Respondents herein, and/or its agents and other employees which may be shown to have been a violation of the laws governing the practice of real estate in Mississippi.

XIII.

Respondents were always responsible for full disclosure and accounting of monies belonging to owners, they being clients of Schroeder Real Estate Management.

XIV.

Respondents have pursued and continued in a course of action involving, at a minimum, a gross breach of their fiduciary duties to their principals including the duty of loyalty, obedience, disclosure and full accounting of property management transactions. Additionally, Respondents have demonstrated a significant dearth of required knowledge necessary to competently conduct real estate transactions. The relevant Miss. Statute and Rules and Regulations of the Mississippi Real Estate Commission state, in parts:

M. C. A. §73-35-21:

- (a) Making any substantial misrepresentation
- (c) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents;
- (f) Failing, within a reasonable time, to account for or to remit any monies coming into his possession which belong to others;
- (n) Any act or conduct, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent, or improper dealing.

MREC Rules

3.1 (A): It shall be the duty of the responsible broker to instruct the licensees in the fundamentals of real estate practice, ethics of the profession and to exercise supervision.

Rule 3.1 (F): Any licensee who fails in a timely manner to respond to official MREC written communication or who fails or neglects to abide...shall be guilty of improper dealing.

Rule 3.4 (C): Accurate records shall be kept on escrow accounts of all monies received, disbursed, or on hand.

Rule 4.1: Consumers shall be fully informed of the agency relationships in real estate transactions identified in M. C. A. §73-35-3.

Rule 4.2

(A): "Agency" shall mean the relationship created when one person, the Principal, delegates to another, the agent, the right to act on his behalf in a real estate transaction...

(B): "Agent" shall mean one who is authorized to act on behalf of and represent another.

(C): "Client" shall mean the person to whom the agent owes a fiduciary duty.

(G): (1) Loyalty, (2) Obedience, (5) Reasonable skill, care and diligence, (6) Full accounting

Rule 4.3 Disclosure Requirements

A. In a single agency, a broker is required to disclose, in writing, to the party for whom the broker is an agent in a real estate transaction that the broker is the agent of the party. The written disclosure must be made before the time an agreement for representation is entered into between the broker and the party. This shall be on an MREC Agency Disclosure Form. (WWREB)

B. In a single agency, a real estate broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form. (WWREB)

XV.

Respondents have pursued and continued in a course of action involving, at a minimum, substantial misrepresentation in connection with real estate transactions and have committed numerous acts, or made such omissions, that are to be shown at a hearing of this cause and which constitute or demonstrate bad faith, incompetency or untrustworthiness, or dishonest or improper dealing, all in violation of the laws, rules and regulations governing the practice of real estate in Mississippi all as set forth in Miss. Code Ann. §73-35-21(1), which provides, in relevant parts:

The Commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, hold a hearing for the refusal of license or for the suspension or revocation of a license previously issued, or for such other action as the Commission deems appropriate. The Commission shall have full power to refuse a license for cause or 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;

(c) Pursuing a continued and flagrant course of misrepresentation...

(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent, or improper dealing;...

TO THE RESPONDENTS:

Statutory Hearing Authority/Hearing Proceedings.

You are directed to appear before the Mississippi Real Estate Commission on a date and time set by the Commission by notice of hearing for a hearing to be held pursuant to §73-35-21, M. C. A. (1972) as amended, to show cause, if any you can, why the Commission should not suspend or revoke your license(s) to practice real estate and/or pursue further action against you as may be appropriate in the premises. You may be represented by a lawyer at the hearing, and you or your lawyer may inspect the pertinent evidentiary material contained in the investigative file at the Commission offices. The hearing will be conducted in a trial format; thus, evidence which supports the Complaint will be presented first and you may present any rebuttal witnesses or evidence or make any pertinent statements of your position. Cross examination of witnesses is also be permitted. The formal rules of evidence are relaxed. Necessary witnesses may be subpoenaed by the Commission upon request; appearance and mileage fees for subpoenaed witnesses shall be taxed as part of costs of the proceedings, as applicable. Upon conclusion of the hearing, the Commission renders its decision and notifies the parties, in writing, of its decision.

Hearings and Appeals-Statutory Fees and Costs Taxed

Adverse decisions of the Commission may be appealed to the Circuit Court of the licensee's county of residence or to the Circuit Court of the First Judicial District of Hinds County, within thirty (30) days of the service of the written decision of the Commission. Authorities: *Miss. Code Ann. §§73-35-23, 73-35-25 (1972) as amended; Uniform Circuit and County Court Rules 5.04, 5.05.*

Supersedeas.

Uniform Circuit and County Court Rule 5.08 provides, "[N]o supersedeas will be granted on appeal from a denial, revocation or suspension of a license to practice a profession or a trade." The Commission will oppose all motions for supersedeas.

Required Bond.

A copy of a Notice of Appeal from a Commission decision must be provided to the Commission simultaneously upon filing of the appeal with the Court. Appeals require the posting of a satisfactory bond in the amount of Five Hundred Dollars (\$500.00) for the payment of any costs which may be adjusted by the Court upon conclusion of the appeal. It is the policy of the Commission to seek from the reviewing Court the taxation of all costs and fees as may be available by law as part of any final disposition of an appeal taken from a Commission decision.

Required Hearing Record.

Appeals of Commission decisions require the submission of a written record of the Commission proceedings for review by the Circuit Court on appeal. The record includes exhibits introduced at the hearing and a written transcript/stenographic notes of the Commission proceeding. The Commission's actual costs incurred in the preparation of the Commission hearing record will be billed to the licensee or person taking appeal upon notice to the Commission of the filing of the appeal. Upon payment to the Commission for same, a complete copy of the record shall be furnished to the licensee simultaneously with submission of the record to the Court for review on appeal. If no appeal is taken from a Commission decision, any party to the proceeding may request a copy of the written transcript of the proceedings which shall be furnished upon payment of the Commission's actual costs in preparation of same.

This the 16th day of NOVEMBER, 2018.

MISSISSIPPI REAL ESTATE COMMISSION



BY:

Robert E. Praytor
ROBERT E. PRAYTOR, Administrator

SERVED BY: Rich Stullfeld

DATE: 11/20/2018
10:10

RECEIVED BY: Jay Schroeder
Jay Schroeder, Individually

DATE: 11-20-18

and on and behalf of Schroeder Real Estate Investment, LLC

RECEIVED BY: Marie Schroeder
Marie Schroeder

DATE: 11/20/2018

Scanned for 4/22/19
Read in a Monday 25th

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 027-1804

JAY EDWARD SCHROEDER, PRINCIPAL BROKER;
MARIE SCHROEDER, BROKER ASSOCIATE; AND
SCHROEDER REAL ESTATE & INVESTMENT, LLC
(INACTIVE)

RESPONDENTS

AGREED ORDER

THIS CAUSE came before the Mississippi Real Estate Commission (sometimes hereinafter "Commission") pursuant to authority of Miss. Code Ann. §§73-35-1, *et seq.*, on a formal complaint brought against Respondents Jay Edward Schroeder, Broker, Marie Schroeder, Broker Associate, and Schroeder Real Estate & Investment, LLC (Inactive). Prior to the scheduled hearing before the Commission, the parties announced their respective agreements as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the parties. Respondent Marie Schroeder subsequently announced her intentions for the voluntary surrender of her license and closure of her Commission license file in lieu of further disciplinary proceedings or the imposition of discipline in this matter. By entering into this Agreed Order, Respondents Jay Edward Schroeder and Schroeder Real Estate & Investment, LLC hereby waive their rights to an administrative hearing before the Commission with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the

matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Respondent Jay Edward Schroeder (sometimes hereinafter "Respondent" or "Jay Schroeder") is an adult resident citizen of the State of Mississippi whose last known address of record with the Commission is 520 E. Pass Rd., Ste. N., Gulfport, Mississippi 39507. Jay Schroeder has been the owner and responsible broker for Schroeder Real Estate & Investment, LLC and Broker Associate, Respondent Marie Schroeder. Respondent Jay Schroeder 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, he is subject to all of the provisions, rules, regulations governing the sale of real estate, management of real properties and licensing of real estate brokers and companies under Mississippi law.

II.

Respondent Marie Schroeder (sometimes hereinafter "Respondent" or "Marie Schroeder"), is an adult resident citizen of the State of Mississippi whose last known address of record with the Commission is 520 E. Pass Rd., Ste. N., Gulfport, Mississippi 39507. At all times relevant to the complaint underlying these proceedings, Marie Schroeder was 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 governing the sale of real estate, management of real properties and licensing of real estate brokers under Mississippi law. Prior to entry of

this Agreed Order, Respondent Marie Schroeder announced her intentions for the voluntary surrender of her real estate broker's license and closure of her Commission license file in lieu of further disciplinary proceedings in this matter.

III.

Respondent Schroeder Real Estate & Investment, LLC was a Mississippi limited liability company with its principal place of business located at 520 E. Pass Rd., Ste. N., Gulfport, Mississippi 39507. Respondent Schroeder Real Estate & Investment, LLC was a company licensed as a real estate brokerage by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, it was subject to all of the provisions, rules, regulations and statutes governing the sale and management of real property and licensing of real estate brokers under Mississippi law. At all times relevant to the complaint underlying these proceedings, Respondent Jay Schroeder was the owner and responsible broker for Respondent Schroeder Real Estate & Investment, LLC. The company license issued for Respondent Schroeder Real Estate & Investment, LLC was placed inactive on or about November, 2017.

IV.

On or about April 16, 2018, the Commission received a sworn complaint from Lisa Yearwood (sometimes hereinafter "Yearwood"). Since 2005, Respondents had managed rental properties in Hancock County, Mississippi, owned by Yearwood's father, Fred Wagner. Lisa Yearwood assumed responsibilities for her father's properties upon his failing health. Respondents' agreement with Wagner for managing the properties provided that rental proceeds were to be paid quarterly. Among other complaints, Yearwood

complained that she had not received any net rental income from Respondents since October, 2016. During the Commission investigation, Yearwood submitted a copy of a letter her father had written to Jay Schroeder in February, 2013. The letter read, in relevant part: "For some reason I do not understand, no rent checks have been sent to me from you in all of 2012 (or so far in 2013). I have tried by phone and mail to discuss this with you and/or Marie without success."

V.

The verbal arrangement between Wagner and Respondent Jay Schroeder was for rental proceeds for the two properties managed by Respondents to be remitted to Wagner quarterly. During the Commission investigation, Yearwood submitted a copy of an email she sent to Respondents on February 8, 2018 wherein she stated she had received no rental proceeds since October, 2016 and issued a demand for the outstanding rental proceeds. Yearwood alleged this correspondence and follow up correspondence were ignored by Respondents. Yearwood hired an attorney to inquire of Respondents regarding the matter. Respondents informed Yearwood's attorney that the rental proceeds had been disbursed to the owner's accountant. The accounting firm verified that no such payments had been received, despite Respondents' representations. Ultimately, Yearwood was forced to drive to Respondents' office where she received a check for \$31,000.00 in outstanding proceeds, which amount was less than the full amount owed.

VI.

An additional complaint by Yearwood concerned allegations of inattention to the management of the subject properties. Yearwood relayed complaints of tenants regarding failure of Respondents to respond to maintenance issues. During the Commission investigation, documents attendant the rental transactions for the subject properties were requested. Working with Real Estate Broker (WWREB) forms were received regarding one or more of the transactions with tenants for the subject properties, which forms were not in proper order.

VII.

During the Commission investigation, Respondents failed to provide timely or substantive responses to Commission investigative staff. Respondent Jay Schroeder was directed to submit a notarized affidavit along with the submission of all documents attendant the management of the subject properties. No affidavit was submitted with documents from Respondents during the Commission investigation. An unsworn response to the Commission, signed only by Respondent Marie Schroeder, claimed that the rental proceeds had been transmitted regularly. Documentation submitted by Respondents regarding the rental proceeds included self-generated reports not otherwise prepared in the normal course of business. No evidence was obtained during the Commission investigation to support Respondents' claims to have timely remitted the rental proceeds at issue. Ultimately, Respondents admitted that they had been less than forthcoming in their communications with the Commission during its investigation.

VIII.

Prior to the Commission hearing scheduled for this matter, Respondent Marie Schroeder announced to the Commission her intentions to accept responsibility for the allegations set forth in the Commission complaint. Respondent Marie Schroeder announced her intentions for the voluntary surrender of her broker's license and closure of her Commission license file in lieu of further disciplinary proceedings.

CONCLUSIONS OF LAW

The Commission finds that the foregoing described acts and omissions of the Respondents constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, Miss. Code Ann. §§73-35-1, *et seq.*, and the Rules and Regulations of the Commission and, more specifically, Miss. Code Ann. §73-35-21(1)(a),(c),(f) and (n), and Rules 3.1A and F, 4.1, 4.2 A, B, C and G, 4.3 A and B, which provide, in relevant parts:

§73-35-21 (1):

The commission may, upon its own motion ...hold a hearing for the ... suspension or revocation of a license previously issued, or for such other action as the commission deems appropriate. The commission shall have the full power to refuse a license for cause or to revoke or suspend a license ...where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

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

(c) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;

(f) Failing, within a reasonable time, to account for or to remit any monies coming into his possession which belong to others...

(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing...

Rule 3.1 General Rules

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.

F. Any licensee who fails in a timely manner to respond to official Mississippi Real Estate Commission written communication or who fails or neglects to abide by Mississippi Real Estate Commission's Rules and Regulations shall be deemed, prima facie, to be guilty of improper dealing.

Rule 4.1 Purpose

Consumers shall be fully informed of the agency relationships in real estate transactions...

Rule 4.2 Definitions

A. "Agency" shall mean the relationship when one person, the Principal (client), delegates to another, the agent, the right to act on his behalf in a real estate transaction...

B. "Agent" shall mean one who is authorized to act on behalf and represent another. A real estate broker is the agent of the principal (client) to whom a fiduciary obligation is owed...

C. "Client" shall mean the person to whom the agent owes a fiduciary duty. It can be a seller, buyer, landlord, tenant or both.

G. "Fiduciary Responsibilities" are those duties due the principal (client) in a real estate transaction...:

(1) 'Loyalty' -the agent must put the interests of the principal above the interests of the agent or any third party.

(2) 'Obedience' –the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

(5) 'Reasonable skill, care and diligence' –the agent must perform all duties with the care and diligence which may reasonably expected of someone undertaking such duties.

(6) 'Full accounting' –the agent must provide a full accounting of any money or goods coming into the agent's possession which belong to the principal or other parties.

Rule 4.3 Disclosure Requirements

A. In a single agency, a broker is required to disclose, in writing, to the party for whom the broker is an agent in a real estate transaction that the broker is the agent of the party. The written disclosure must be made before the time an agreement for representation is entered into between the broker and the party. This shall be on an MREC Agency Disclosure Form.

B. In a single agency, a real estate broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form.

DISCIPLINARY ORDER

Upon agreement and consent of Respondent Jay Edward Schroeder, Broker, as to the disciplinary terms and disposition of this matter in lieu of a hearing before the Commission and, having issued its Findings of Fact and Conclusions of Law, the Commission hereby issues its Disciplinary Order as follows:

1. The license of Respondent Jay Edward Schroeder will be suspended for a period of nine (9) months. During this period of suspension, Respondent will not be allowed to conduct any activity for which a real estate license is required; and

2. Following the nine (9) month period of suspension, Respondent's license shall be placed on probation for a period of three (3) months; and

3. During the nine (9) month period of suspension, Respondent shall complete eight (8) hours of mandatory continuing education: four (4) hours Agency, two (2) hours Contract Law and two (2) hours License Law. All courses shall be approved by the Commission prior to being taken and must be administered by a Commission approved continuing education provider in a classroom setting. The mandatory continuing education hours shall be in addition to any continuing education hours required for renewal of Respondent's license and shall not be the same continuing education course from the same provider previously completed for the renewal of Respondent's license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

4. This Agreed Order shall be effective upon the date it is executed by the Commission.

THIS the 1st day of MAY, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY: *Robert E. Praytor*
ROBERT E. PRAYTOR, Administrator

AGREED:

Jay Edward Schroeder DATE 4-26-19
JAY EDWARD SCHROEDER



STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named **Jay Schroeder**, who, having been first duly sworn by me, stated on his oath that the matters and things set forth in the above and foregoing document are true and correct as therein stated.

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 26th day of April, 2019.



[Handwritten Signature]

My Commission Expires:

March 17, 2022

Prepared by:
Rafferty Law Group, PLLC
2118 18th Street
P.O. Box 4252
Gulfport, MS 39502
PH: (228) 868-5421
FX: (228) 868-5422

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

IN RE: THE BROKER'S LICENSE OF
MARIE A. SCHROEDER,
LICENSE NO. 21035

AFFIDAVIT OF VOLUNTARY SURRENDER OF LICENSE
IN LIEU OF DISCIPLINARY PROCEEDINGS

I, **MARIE A. SCHROEDER**, being of lawful age, swear and affirm under penalty of perjury, that:

1. I hold a Mississippi real estate broker's license, No. 21035, issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, I am subject to all of the provisions, rules, regulations and statutes governing the sale of real estate, property management and licensing of real estate brokers under Mississippi law.
2. I was named as a Respondent in that certain proceeding on a formal complaint brought by the Mississippi Real Estate Commission ("Commission") styled as *Mississippi Real Estate Commission vs. Jay Edward Schroeder, Broker, Marie Schroeder, Broker Associate, and Schroeder Real Estate Investment, LLC (Inactive)*, and being Case No. 027-1804 on the administrative docket of the Commission.
3. I am aware that the referenced matter, Case No. 027-1804, remains pending before the Commission. The content and substance of the above referenced complaint, and the contents of any of the Commission's investigative files regarding said complaint, are incorporated herein by reference.

4. I am aware and acknowledge that the allegations set forth in the above referenced pending complaint, if proven, would constitute violations of the Mississippi Real Estate Broker's License Law of 1954, Miss. Code Ann. 73-35-1, *et seq.*, as amended, and/or the rules and regulations of the Commission promulgated thereto, for which I could be subjected to discipline by the Commission, up to and including revocation of my license to practice real estate in Mississippi.

5. I am fully aware of my rights to contest the allegations of the above referenced complaint at a disciplinary hearing before the Commission. I hereby acknowledge and accept responsibility for the allegations in the Commission complaint brought against me.

6. In lieu of a disciplinary hearing before the Commission, I desire to voluntarily surrender my broker's license, No. 21035, and to close my license file with the Commission.

7. I am surrendering my license freely and voluntarily and I am not subject to duress or coercion.

8. In exchange for the Commission's acceptance of my voluntary surrender of my license in lieu of disciplinary proceedings against my license, I acknowledge that I am voluntarily and knowingly waiving all of my rights regarding my license and the above referenced complaint, which include but are not necessarily limited to, an administrative hearing with full due process, representation by counsel at my own expense at any hearing, the right to present witnesses and evidence on my own behalf and the right to cross-examine witnesses called to testify against me, and the right to seek judicial review of any decision of the Commission on the merits of the complaint brought against me.

9. I acknowledge and agree that the surrender of my license and closure of my Commission license file shall be effective upon the date of my execution of this Affidavit of Voluntary Surrender.

10. My original wall license and pocket card are attached or enclosed herewith for return to the Commission along with this Affidavit of Voluntary Surrender.

FURTHER, AFFIANT SAYETH NOT.

Signed: Marie A. Schroeder
MARIE A. SCHROEDER

STATE OF MISSISSIPPI

COUNTY OF Harrison

SWORN TO AND SUBSCRIBED BEFORE ME, this the 26th day of April, 2019.



Lisa B. Threadgill
NOTARY PUBLIC

My Commission expires:

March 17, 2022