

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 018-1904

**MARTHA R. FORD, BROKER
KRISTY L. WHITEAKER, SALESPERSON**

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 Martha Ford, Broker, and Kristy L. Whiteaker, Salesperson. 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 rights to a full hearing and to any appeal. The Commission, then, does hereby find and order the following:

I.

Respondent Martha R. Ford, sometimes hereinafter "Respondent" or "Ford", is an adult resident citizen of Mississippi whose last known address of record with the Commission is 6026 Woods Drive, Picayune, MS 39466. Respondent Ford 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. Respondent Ford was, at the time of this transaction, the responsible broker for Respondent Kristy L. Whiteaker.

II.

Respondent Kristy L. Whiteaker, sometimes hereinafter "Respondent" or "Whiteaker," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 634 E. Jessica St., Ellettsville, IN 47429. Respondent Whiteaker is the holder of a real estate salesperson'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 Miss. law.

III.

On March 1, 2019 the Commission received a sworn statement of complaint from Lee Thomas, Principal Broker of Core Alliance Realty, located at 1620 US Highway 11 North, Suite "D" in Picayune, Mississippi 39466. His complaint was made against Salesperson Kristy L. Whiteaker, now inactive and formerly of Ford Realty, Inc., and Principal Broker, Martha R. Ford, whose Brokerage is located at 1004 Memorial Boulevard in Picayune, Mississippi 39466. The complaint contends that Whiteaker, while actively licensed with Ford Realty Inc., showed a property listed with Core Alliance Realty to a buyer, sent the buyer to a lender, and discussed price and terms with the buyer, all without having the buyer first sign a WWREB form. The address of the property in question was 1720 Adcox Rd in Picayune, Mississippi and the buyer's name was Arie Holloway.

IV.

In addition, Thomas included a copy of a Google advertisement for Ford Realty, Inc. which showed phone number (769) 242-1210 as a contact number. Thomas stated that the only number he found listed on the Commission website was (601) 798-6202. That is also the only number the Commission has for Ford Realty, Inc.

V.

Broker Martha Ford's response, received April 16, 2019, included a letter from Whiteaker where Whiteaker stated she had been contacted by Holloway through a lead from Realtor.com on August 2, 2018. Whiteaker scheduled a showing for August 8, 2018. She received a call from the listing agent, Chelsea Thomas, that day before asking to reschedule because the seller's children were sick. The new showing date was then set for August 10, 2018. Whiteaker and the buyer met at the property, entered and viewed. Another appointment was set up for the following day when the seller would be available to view the property with the buyer and Respondent Whiteaker. It was at this time that Whiteaker intended to bring the WWREB form for signature, since the Buyer was not at the first meeting and he was to be on the mortgage loan as well. Whiteaker admitted that she failed to have her client sign a WWREB form when they first met on August 10, 2018.

VI.

Respondent Ford's statement agreed with the events explained in Whiteaker's reply. Ford included an explanation about the telephone number ending in 1210, displayed in the Google ad. Respondent Ford said that this number the Complainant brought to the Commission's attention was not a telephone number that she remembered having arranged or paid for through Ford Realty. When she dialed that number, however, it did ring at Ford Realty. Respondent Ford sent Google a request to remove that unknown number and replace it with the primary office number used in her advertisements. This change has occurred, and it appears this violation did not occur as to Ford.

VII.

The above and foregoing described acts and omissions of the 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(1)(n) and Commission Rules 3.1A, 3.3, and 4.2G, H, 4.3A which provide, in relevant parts:

Rule 3.1A 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 4.2 G:

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

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

Rule 4.2 H (3)(a):

(3) "In a real estate transaction in which the Broker is the agent for the buyer, first substantive meeting shall be at the initial contact with a seller or a seller's agent or before or just immediately prior to the first of any of the following:

Showing the property of a seller to a represented buyer."

Rule 4.3 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."

§73-35-21. Grounds for refusing to issue or suspending or revoking license; hearing

(1) 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 it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(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. However, simple contact and/or communication with any mortgage broker or lender by a real estate licensee about any professional, including, but not limited to, an appraiser, home inspector, contractor, and/or attorney regarding a listing and/or a prospective or pending contract for the lease, sale and/or purchase of real estate shall not constitute conduct in violation of this section.

DISCIPLINARY ORDER

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

As to Martha Ford, Broker, the Commission orders that her license incur a one (1) month suspension, held in abeyance, followed by five (5) 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 that thirty (30) days held in abeyance. This order begins October 15, 2019. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes must be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Kristy L. Whiteaker, Salesperson, the Commission orders that her license incur a one (1) month suspension, held in abeyance, followed by five (5) months of probation, with both contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and 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 thirty (30) days beginning October 15, 2019. Said education can be completed through Distance Education (online). Further, these classes must be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

So Ordered this the 15th day of October, 2019.

MISSISSIPPI REAL ESTATE COMMISSION



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

Agreed: _____
Kristy L. Whiteaker, Salesperson

DATE: _____

Agreed: *Martha Ford*, Broker
Martha Ford, Broker

DATE: 10-11-19