BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION	COMPLAINANT
VS.	NO. 70-1811
G. LEE BOYETTE, PRINCIPAL BROKER; MELISSA S. KEY, MANAGING BROKER; AND SUE B. GALLASPY, BROKER ASSOCIATE	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.,* as amended, on a formal Complaint brought against G. Lee Boyette, Principal Broker, Melissa S. Key, Managing Broker, and Sue B. Gallaspy, Broker Associate. Prior to the hearing before the Commission, the parties announced their agreement as to the allegations of the complaint and disciplinary action for the Respondents, all as set forth herein. By entering into this Agreed Order, Respondents waive their rights to a hearing with full due process and the right of each to appeal any adverse decision resulting from that hearing. Having reached an agreement on this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Respondent G. Lee Boyette, Broker, sometimes hereinafter "Respondent" or "Boyette" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 813 N. 16th Avenue, Laurel, Mississippi 39440. Respondent Boyette 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 and statutes

governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law. Respondent Boyette is the principal and responsible broker for Woodland Realty, Inc.

II.

Respondent Melissa S. Key, Broker, sometimes hereinafter "Respondent" or "Key" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 6504 Highway 98, Suite B, Hattiesburg, Mississippi 39402. Respondent Key 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. Respondent Key is the managing broker for the Woodland Realty, Inc. office in Hattiesburg.

III.

Respondent Sue B. Gallaspy, Broker, sometimes hereinafter "Respondent" or "Gallaspy" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 6504 Highway 98, Suite B, Hattiesburg, Mississippi 39402. Respondent Gallaspy 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. Respondent Gallaspy is a Broker Associate in the Woodland Realty, Inc. office in Hattiesburg.

IV.

On or about November 5, 2018, the Commission received a sworn statement of complaint from Livia C. Pirsalehy, sometimes hereinafter "Complainant" or "Pirsalehy." Pirsalehy hired Key to sell her property located at 2304 Eddy Street, Hattiesburg, Mississippi 39402. Pirsalehy complained that Respondents had allowed access to the property for cleaning and that items of

personal property had been removed without her permission and contrary to her express instructions. Upon receipt of Pirsalehy's complaint, the Commission began an investigation into the matter and responses and documents attendant the transaction were obtained from Respondents.

V.

Respondent Key and Pirsalehy made an appointment to meet at the Eddy Street property on August 23, 2018 to sign documents and obtain keys to the property for showing. Subsequently, Key had a schedule conflict arise, so arrangements were made for Respondent Gallaspy, Broker Associate, to meet with Pirsalehy at the property that day and a walk through was conducted and transactional documents executed.

VI.

During the August 23 meeting, a discussion was had between Respondent Gallaspy and Pirsalehy regarding removal of remaining furniture/personal property from the house and a necessary cleaning of the house which had been occupied by Pirsalehy's daughter's ex-fiancé for a significant period. The house was vacant but full of furniture/personal property. Gallaspy recommended a local cleaning lady, Ms. Wilson, who would be able to clean the property. Pirsalehy gave specific instructions to Gallaspy that Pirsalehy's daughter needed to remove her belongings/personal property prior to the house being cleaned.

VII.

Approximately two weeks later, on or about September 10, 2018, Respondent Gallaspy gave a key to the cleaning lady, Ms. Wilson. Gallaspy gave specific instructions to Ms. Wilson to clean the property but not remove the bedroom furniture that was left. Ms. Wilson had access to and cleaned the property over the following approximate two-week period.

VIII.

On or about October 3, 2018, Gallaspy informed Pirsalehy that the house had been cleaned and some bedroom furniture had been left on the street for disposal. Pirsalehy was upset and complained that the cleaning lady Ms. Wilson had been given access to clean the house and disposed of items without confirmation that Pirsalehy's daughter had removed her personal property. Pirsalehy complained that items had been disposed of without her permission and specifically including a valuable oriental rug.

IX.

In a response submitted during the Commission investigation, Gallaspy stated that at the end of the second week of cleaning, she had instructed Ms. Wilson to finish the cleaning and "cleaning out" of the property. Gallaspy claimed that "in the past, anything that was left [Ms. Wilson] put at the street or took to her storage."

X.

Respondent Melissa Key stated she had visited the property after Gallaspy had secured the listing and keys but "prior to the cleaning lady coming." It appeared to Key that someone had been in the property because some boxes and furniture had been removed. Key "assumed" Pirsalehy's daughter had come to remove the personal property she wanted. Pirsalehy informed Key on October 3 that she was upset to have learned that the cleaning lady Ms. Wilson had removed the remaining furniture. In response to the Commission, Key stated she informed Pirsalehy that "there had been some type of misunderstanding" and that "we had waited several weeks so she and/or her daughter could get everything removed."

XI.

Subsequently, Key and Gallaspy inquired of the cleaning lady Ms. Wilson who admitted she had taken two rugs from the home and placed them in her personal storage. Wilson was

instructed to return the rugs to Key's office for return to Pirsalehy. Pirsalehy retrieved the rugs but claimed neither was the oriental rug she was most upset about.

XII.

Respondents stated they believed they had been given "verbal instructions" to have the house cleaned/cleaned out. Neither of Respondents Key or Gallaspy denied that Pirsalehy had given instructions that she intended for her daughter to have an opportunity to come and retrieve her personal items from the property before it was cleaned. It was established that neither Key nor Gallaspy ever confirmed with Pirsalehy whether her daughter had in fact retrieved her property before they granted access to the cleaning lady Ms. Wilson. The property had been shown more than one time during this period and there is no evidence that any effort was made to determine if access to the property had been secured by Respondents upon accepting the listing for the property.

CONCLUSIONS OF LAW

XIII.

The Commission and Respondents agree that 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 and 4.2G(2) and(5) which provide, in relevant parts:

***As to G. Lee Boyette, Principal Broker*:**

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.

As to Melissa S. Key, Managing Broker and Sue B. Gallaspy, Broker Associate:

§73-35-21(1)(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates...incompetency... or improper dealing...

Rule 4.2 G "Fiduciary Responsibilities" are those duties due the principal (client) in a real estate transaction...:

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(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.

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(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.

DISCIPLINARY ORDER

Upon agreement and consent of each of Respondents as to disciplinary terms and disposition of the 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. Respondent G. LEE BOYETTE shall be issued an Official Letter of Reprimand. This Agreed Order, upon execution by Respondent Boyette and the Commission, shall serve as the Letter of Reprimand in the Commission license file for Respondent Boyette.
2. The licenses of Respondents MELISSA S. KEY and SUE B. GALLASPY shall each be suspended for a period of thirty (30) days, held in abeyance. Respondents Key and Gallaspy shall be permitted to continue the practice of real estate in the State of Mississippi during the period of suspension in abeyance insofar as Respondents Key and Gallaspy comply with all Mississippi Real Estate Commission statutes, rules and regulations and all other terms of this Agreed Order; and
3. Following the period of suspensions held in abeyance, the licenses of Respondents Key and Gallaspy will be placed on probation for a period of five (5) months; and

4. During the period of suspensions held in abeyance, Respondents Key and Gallaspy shall each 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 Respondents' licenses and shall not be the same continuing education course from the same provider previously completed for the renewal of one the individual Respondent's licenses during the last renewal period. Respondents Key and Gallaspy shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

5. This Agreed Order shall be effective upon the date same is executed by the Commission.

THIS the 23RD day of SEPTEMBER 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY: _____
ROBERT E. PRAYTOR, Administrator

AGREED:

_____ DATE 9-18-19
G. LEE BOYETTE

_____ DATE 9-17-19
MELISSA S. KEY

_____ DATE 9/17/19
SUE B. GALLASPY