

**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 05-1801**

**J. HENRY LAROSE, III, BROKER AND  
RICHARD A. WARRINER, III, SALESPERSON**

**RESPONDENTS**

**ORDER**

THIS CAUSE came before the Mississippi Real Estate Commission (sometimes hereinafter "Commission") pursuant to authority of §§73-35-1, *et seq.*, Miss Code Ann. (1972) as amended. The Commission conducted a hearing on the formal complaint brought against Richard A. Warriner, III, Salesperson (sometimes hereinafter "Warriner") in the above referenced cause at its offices in Jackson, Hinds County, Mississippi on August 13, 2019 beginning at 10:00 a.m.<sup>1</sup> At the hearing, Richard A. Warriner, Salesperson, was present and represented by counsel. The Commission recognized its quorum and opened the hearing. The hearing was conducted with witnesses being sworn, documentary evidence being admitted as exhibits, the right to cross examination of witnesses, statements from counsel and the verbatim transcript of the hearing being taken by an official court reporter. The Commission makes its Findings of Fact, Conclusions of Law and issues this

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<sup>1</sup> Prior to hearing, Respondent J. Henry LaRose, III, Broker, independently announced his voluntary agreement with the Commission to waive his right to a hearing before the Commission on allegations against him, individually, and for agreed discipline as to his license, which disciplinary terms are memorialized and set forth in a separate written Agreed Order. Therefore, the Commission proceeded to hearing only against Respondent Warriner.

its Disciplinary Order as set forth hereinafter based upon evidence introduced at the hearing which evidence was clear and convincing.

I.

Respondent Richard A. Warriner III, Salesperson is an adult resident citizen of Mississippi whose last known address of record with the Commission is 607 Highland Colony Parkway, Suite 210, Ridgeland, Mississippi 39157. Respondent Warriner 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, 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. At material times relevant to the allegations in this cause, Respondent Warriner was, and remains, licensed under responsible broker J. Henry LaRose, III. At other relevant times, Respondent Warriner was licensed under Stuart Warren, Broker with Turn Key Properties, LLC.

II.

The Commission received a sworn complaint from Stuart Warren with Turn Key Properties, LLC (sometimes hereinafter "Warren" and "Turn Key," respectively). Warren complained that Warriner had been licensed as a salesperson with his brokerage until on or about January 4, 2018, at which time he transferred his salesperson's license to a new responsible broker, Henry LaRose with Good Earth Realty (sometimes hereinafter "LaRose" or "Good Earth," respectively). Warren complained that, prior to Warriner's transfer of license to LaRose's brokerage, Warriner had several active listings under Warren's brokerage. Of those active listings, only one was under contract for a pending sale and which was a property located at 5162 Hwy. 49 S. in Braxton, Mississippi. The

sale of this property was first scheduled to close on or about January 12, 2018 at the offices of attorney Farris Crisler.

### III.

When Stuart Warren signed Warriner's Salesperson Transfer Application on or about January 4 (a Commission form required for the transfer of a real estate salesperson's license from one responsible broker to another responsible broker), Warriner was informed that Warren/Turn Key Properties would allow him to transfer his active listings to LaRose's brokerage only in exchange for a 25% referral fee. Warriner refused the offer as proposed. In a sworn statement made upon the referenced Salesperson Transfer Application, Warriner swore under oath that he agreed "not to take ANY listings or other pertinent information from my former broker without his/her written authorization/consent and any other necessary approvals." Warriner had signed the Salesperson Transfer Application on January 3, the day before he presented same to Warren when informing Warren of his intended departure from Warren's brokerage, Turn Key. The same day, January 3, Respondent Broker Henry LaRose signed the transfer application, swearing to "accept full responsibility" for Warriner as a salesperson transferring to his brokerage, Good Earth Realty, for which he is Responsible broker. From the date upon which Warren signed the license transfer application, on or about January 4, and until Warriner's license was reissued under Respondent LaRose's brokerage, on or about January 22, Warriner was not licensed to practice real estate in Mississippi.

### IV.

The day he left Warren's brokerage, Warriner sent an email to Warren specifically requesting Warren's response "that you are in agreement with [the assignment of the

listings from Turn Key to Good Earth] as this email will be forwarded to Central MS MLS for confirmation.” Warren testified at the hearing that he did not respond to Warriner’s request, having already informed Warriner he would release the listings for a 25% referral fee and Warriner having already refused. On or about January 23, 2018, Warriner sent Warren another email requesting permission for the assignment. Warren responded and affirmed his original offer to release the listings for a 25% referral fee. Warren further instructed that the listings would otherwise remain with Turn Key. Further, Warren instructed that Turn Key would not release the listing under contract that was scheduled to close. Warren instructed that he intended to be at the closing and same would close with Turn Key.

V.

The same day, January 23, Warriner presented to the Central Mississippi Realtors office and instructed that the listings be transferred to Good Earth Realty under his new responsible broker Henry LaRose. In a sworn response to the Commission, Warriner admitted he had never received Warren’s permission for the listings to be reassigned. Warriner and Stuart Warren testified accordingly at the Commission hearing. Warriner further admitted that he specifically informed the CMR representative that he did not have Warren’s written permission. CMR reassigned the listings on January 24 without Warren’s permission and contrary to the sworn statement on Warriner’s Salesperson Transfer Application wherein he promised not to take listings without his former broker’s written permission.

## VI.

The scheduled closing for the Braxton property was rescheduled for closing on January 26 at the offices of James Renfroe instead of Farris Crisler who was originally scheduled to close the transaction. Warriner denied any involvement in the change of closing attorneys. Warriner admitted that he did not inform Warren of the change and it was established at the hearing that Warren was never so informed. In a sworn statement to the Commission, Warriner stated that he received the proposed Sellers Disclosure Statement from Renfroe's office on January 24. Warriner then contacted Renfroe's office and informed Renfroe's office that the listing had been assigned/changed to Good Earth Realty. Renfroe's office requested confirmation of the change of brokerage firms. Warriner supplied Renfroe's office with the updated MLS listing that reflected the change to Good Earth Realty, which change was admittedly made without the permission of Stuart Warren.

## VII.

In a written response to the Commission, Respondent Warriner admitted that the listings were the property of the original listing broker, Turn Key Properties. Warriner admitted that he had informed the clients for whom he had listings under Warren's brokerage that said listings "belonged to the broker [Stuart Warren/Turn Key]" and that "Stuart will probably contact them once my license is taken off his wall because the listings will be in his name at that point."

VIII.

Following the closing, which Warriner caused to be transacted with LaRose's brokerage Good Earth Realty, Warriner notified Warren that he would honor a 20% commission for the Braxton closing but that same would be held in the escrow account of Respondent LaRose's brokerage, Good Earth Realty, until Warriner and Warren's issues were resolved. At the Commission hearing, Warriner admitted that he had transmitted this communication directly to Stuart Warren but had not informed or otherwise involved his new broker Henry LaRose in the communication regarding holding the commission in the Good Earth Realty escrow account.

IX.

Commission records entered into evidence at the Commission hearing clearly reflect that Respondent Warriner and his new broker LaRose executed the required Salesperson Transfer Application on or about January 3, 2018. Therein, Respondent Warriner swore before a notary public, in relevant part, as follows:

**...I agree not to take ANY listings or other pertinent information from my former broker without his/her written authorization/consent and any other necessary approvals.**

Likewise, Respondent LaRose executed the Transfer Application and swore before a notary public, in relevant part, as follows:

**...I hereby approve such application and "accept full responsibility" for this broker-salesperson.**

When Respondent Warriner presented to Central Mississippi Realtors Multiple Listing Service (MLS) and caused his listings to be transferred from Warren's brokerage Turn Key to Respondent LaRose's brokerage Good Earth, Respondent Warriner's actions were

contrary to his sworn, notarized statement on the Transfer Application and contrary to Warriner's admitted knowledge that the listings belonged to his former broker Stuart Warren and that Warren had refused to release them. Warriner's hearing testimony and other evidence clearly reflect that he operated independently of and otherwise without proper supervision by his new Responsible Broker LaRose during the relevant time period.

X.

The Commission, having heard the testimony of witnesses placed under oath at the hearing of this matter and having considered the documentary evidence entered into the hearing record, finds that clear and convincing evidence was introduced at the hearing upon which the Commission concluded that the above and foregoing described acts and omissions of Respondent Richard Warriner 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, §73-35-1, §73-35-21(1)(n) and Commission Rule 3.1B which provide, in relevant parts:

**§73-35-1** ...[I]t shall be unlawful for any person ...to engage in or carry on, directly or indirectly, or to advertise or to hold himself ...out as engaging in or carrying on the business, or act in the capacity of ...a real estate salesperson, within this state, without first obtaining a license as a ...real estate salesperson as provided for in this chapter.

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

**Rule 3.1B** A real estate broker who operates under the supervision of a responsible broker must not at any time act independently as a broker. The responsible broker shall at all times be responsible for the actions of the affiliated broker to the same extent as though that licensee were a salesperson and that affiliated broker shall not perform any real estate service without the full consent and knowledge of his employing or supervising broker.

## DISCIPLINARY ORDER

1. Respondent Richard A. Warriner, III, Salesperson, shall have his license suspended for a period of ninety (90) days beginning upon the effective date of this order. Said suspension will be held in abeyance.
2. Following the period of suspension in abeyance, the license of Respondent will be placed on probation for a period of nine (9) months.
3. Respondent Warriner will be allowed to continue the practice of a real estate Salesperson in Mississippi during the periods of suspension in abeyance and probation provided that he complies with all of the statutes, rules and regulations governing the practice of real estate in the State of Mississippi and otherwise complies with all other terms in this Disciplinary Order.
4. Prior to the expiration of the ninety (90) day suspension period in abeyance, Respondent shall complete eight (8) hours of mandatory continuing education: four (4) hours in agency; two (2) hours in license law, and two (2) hours in contract law. All courses shall be approved by the Commission and this mandatory continuing education shall be in addition to that required for license renewal. This mandatory continuing education shall not be the same course from the same course provider previously completed for renewal of Respondent's license during the last two (2) renewal periods. Respondent Warriner shall furnish to the Commission written evidence of satisfactory completion of the required continuing education courses.

5. Failure to furnish written evidence of completion of the required continuing education courses or failure to otherwise fully comply with all other terms of this Disciplinary Order shall be deemed grounds for further discipline of Respondent.
6. Appeal of this Disciplinary Order may be taken as provided for in Miss. Code Ann. §73-35-25 and, upon appeal, Commission costs may be assessed pursuant to Miss. Code §73-35-23 and §73-35-25.
7. This Disciplinary Order shall become effective thirty (30) days from the date it is executed by the Commission.

THIS the 10<sup>th</sup> day of September, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY: Larry W. Edwards  
LARRY W. EDWARDS, CHAIRPERSON  
FOR, AND ON BEHALF OF THE  
MISSISSIPPI REAL ESTATE COMMISSION

