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**

AGREED 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, on a formal Complaint brought against J. Henry LaRose III, Broker, and Richard A. Warriner III, Salesperson. Prior to the hearing before the Commission, Respondent Broker J. Henry LaRose, III announced his agreement with the Commission as to the allegations of the Commission Complaint and disciplinary action regarding his license in lieu of a formal hearing before the Commission, all as set forth herein.[1] Having reached an agreement on the matter with Respondent Henry LaRose, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

I.

Respondent J. Henry LaRose III, Broker (sometimes hereinafter "Respondent" or "LaRose"), 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

[1] Respondent Richard Warriner exercised his right to appear before the Commission at an administrative hearing as to allegations against him, individually, which hearing was conducted and concluded on Tuesday, August 13, 2019.

39157. Respondent LaRose 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. At material times relevant to the allegations in this Complaint, Respondent LaRose was, and remains, the responsible broker for Respondent Richard A. Warriner, III (sometimes hereinafter "Warriner"). Prior to that time, Warriner was licensed as a salesperson under Broker Stuart Warren with Turn Key Properties.

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 Salesperson Richard 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, Respondent Henry LaRose with Good Earth Realty (sometimes hereinafter "Respondent," "LaRose" or "Good Earth," respectively). Warren complained that, prior to Warriner's transfer of license to Respondent 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 a response from Warren "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 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. Respondent LaRose was copied on this January 23 correspondence from Stuart Warren.

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 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. 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. During the Commission investigation, no evidence was obtained to establish that Respondent LaRose had provided any supervision of Warriner's activities with respect to the intended closing for the Braxton property.

VII.

In a written response to the Commission, 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." During the transition period between the date that Warriner left Warren's brokerage, Turn Key, and until his license was reissued under the brokerage of Good Earth Realty and Respondent LaRose on or about January 22, 2018, Warriner was not licensed to practice real estate in Mississippi. Evidence obtained during the Commission investigation established that Warriner was in fact conducting licensable real estate activities during this transition period. Respondent LaRose, in executing the Salesperson Transfer Agreement, accepted all responsibility for the actions of his licensee, Richard Warriner.

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. Warriner transmitted this communication directly to Stuart Warren. During the Commission investigation, no evidence was obtained that Warriner had informed or otherwise involved his new broker Henry LaRose in the communication regarding holding the commission in the Good Earth Realty escrow account. The Commission obtained no evidence during its investigation that Respondent LaRose exercised any supervision of Richard Warriner's licensable activities attendant the proposed and concluded closing of the subject real estate transaction.

IX.

Documents obtained during the Commission investigation clearly reflect that Warriner and his new broker, Respondent LaRose executed the required Salesperson Transfer Application on or about January 3, 2018. Therein, 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 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, Warriner's actions were contrary to his sworn, notarized statement on the Salesperson Transfer Application. Warriner's actions were likewise

contrary to his admitted knowledge that the listings belonged to his former broker Stuart Warren and that Warren had refused to release them. Documents and evidence obtained during the Commission investigation reflect that, during the relevant period, Warriner operated independently of and otherwise without proper supervision by his new Responsible Broker, Respondent Henry LaRose.

CONCLUSIONS OF LAW

X.

The above and foregoing described acts and omissions of the Respondent 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 Rules 3.1A and 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.
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> **§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...
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> **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.
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> **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

Upon agreement of Respondent LaRose and the Commission as to allegations in the Commission Complaint and disciplinary terms to be imposed in lieu of a formal Commission hearing, and, the Commission having issued its Findings of Fact and Conclusions of Law, the Commission hereby issues its Disciplinary Order as follows:

1. The license of Respondent J. Henry LaRose, III, shall be suspended for a period of six (6) months. Said suspension will be held in abeyance.
2. Following the period of suspension in abeyance, the license of Respondent shall be placed on probation for a period of six (6) months.
3. During the periods of suspension in abeyance and probation, Respondent LaRose shall be permitted to continue the practice of a real estate broker in Mississippi provided 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 of this Agreed Order.
4. Prior to the expiration of the period of suspension in abeyance, Respondent LaRose 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 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. This Agreed Order shall be effective upon the date same is executed by the Commission.

THIS the 10 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

AGREED:

J. HENRY LAROSE, III

DATE 19 Sep 2019