BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

vs. **NO. 56-1908**

JAMES WEST MOORE, BROKER
MARY CARPENTER, SALESPERSON **RESPONDENTS**

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 James West Moore, Broker, and Mary Carpenter, Salesperson. The Commission was advised that there has been a resolution reached as to the issues brought forward in this complaint. By entering this Order, the Commission does hereby find and order the following:

I.

Respondent James West Moore (hereinafter called "Moore" or "Respondent"), is an adult resident citizen of MS whose last known address of record is 607 Sweetgum Lane, Oxford, MS 38655. Respondent Moore held a Broker license issued by the Commission pursuant to M. C. A. §§73-35-1, et seq., and, as such, he is subject to the provisions, rules, regulations and statutes governing the practice of real estate under Mississippi law and the Commission rules.

Respondent, Mary Carpenter, (sometimes hereinafter called "Carpenter" or "Respondent"), is an adult resident citizen of MS whose last known address of record is 608 Thrasher Pt. Oxford, MS 38655. Respondent Carpenter holds a sales license issued by the Commission pursuant to M. C. A. §§73-35-1, et seq., and, as such, she is subject to the provisions, rules, regulations and statutes governing the practice of real estate under Mississippi law and the administrative rules of the Mississippi Real Estate Commission.

II.

In May of 2019, the Commission received an application for a broker's license from Carpenter, then an agent with Moore Real Estate. Upon initial processing of the application, the Commission staff discovered that Carpenter's license was inactive because her broker at that time, Moore, had his broker file closed since December 20, 2018. Further examination revealed that since August of 2018, Respondent Moore has been on inactive license status due to a deficiency in his proof to the Commission of having errors and omissions insurance coverage. Notice of said deficiency and subsequent license status change was properly issued to Respondent Moore from the Commission by letter on August 6, 2018. Subsequently, although proof of E & O coverage was later obtained by the Commission, Respondent Moore never returned his license nor filed a reactivation form with the appropriate fees. Moore was warned of his file closure by letter of Dec. 20, 2018 and told of his file closure by letter of Jan. 25, 2019.

III.

Notwithstanding Respondent Carpenter's license status, Respondent Carpenter continued to engage in licensable activities. Respondent Moore, having been advised of his license status, had a duty as a principal broker to know that all agents under him would have licenses affected by his lack of proper due diligence in following Mississippi statues and Commission rules. Agency law of Mississippi inputs this knowledge, as well.

IV.

The Commission alleges that Respondents Carpenter and Moore knowingly and willfully engaged to perform licensable activities of real property during a time when their real estate licenses were inactive. Said conduct evidences a careless or reckless indifference and demeanor toward the Commission and warrants sanctions being imposed against them.

V.

As a further result of this investigation, it was discovered that Respondent' Moore still had an active website, viewed in August of 2019. It was then observed that Moore had agents on his website that were not now with Respondent Moore, those being Carpenter (who had back in June of 2019 transferred her license to Nix-Tann in Oxford, MS), Casey Werner (daughter of Moore, who had moved to South Carolina in 2018) and Moore himself (filed closed in December, 2018).

The above and foregoing described acts of the Respondents James West Moore and Mary Carpenter constitute violations of Miss. Code Ann. §73-35-1, et seq. and Commission Rules, in particular:

Miss. Code Ann. §73-35-1 This chapter shall be known, and may be cited, as "the Real Estate Brokers License Law of 1954"; and from and after May 6, 1954, it shall be unlawful for any person, partnership, association or corporation to engage in or carry on, directly or indirectly, or to advertise or to hold himself, itself or themselves out as engaging in or carrying on the business, or act in the capacity of, a real estate broker, or a real estate salesperson, within this state, without first obtaining a license as a real estate broker or real estate salesperson as provided for in this chapter.

§ 73-35-16. Real estate licensees required to obtain errors and omissions insurance coverage; persons required to submit proof of errors and omissions insurance; minimum requirements of group policy issued to commission; public bid for group insurance contract; requirements for independent coverage; rules and regulations.

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.

Rule 3.3 Advertising

B. A licensee shall not advertise to sell, buy, exchange, auction, rent or lease property in a manner indicating that the offer to sell, buy, exchange, auction, rent, or lease such property is being made by a private party not engaged in the real estate business. No advertisement shall be inserted by a licensee in any publication where only a post office box number, telephone number, or street address appears. Every licensee, when advertising real estate in any publication, shall indicate that the party advertising is licensed in real estate. All advertising must be under the direct supervision and in the name of the responsible broker or in the name of the real estate firm.

D. In addition to disclosing their licensed status in all advertisements, licensees are required to disclose their licensed status on all real estate contracts in which they have an ownership interest. A licensee shall not advertise to sell, buy, exchange, auction, rent or lease property in a manner indicating that the offer to sell, buy, exchange, auction, rent, or lease such property is being made by a private party who is not engaged in the real estate business. No advertisement shall be inserted by a licensee in any publication where only a post office box number, telephone number, e-mail address or street address appears. Every licensee, when advertising real estate in any publication, shall indicate that the party advertising is licensed in real estate; whether on active or inactive status.

DISCIPLINARY ORDER

THEREFORE, the Commission finds and ORDERS discipline as follows:

As to James West Moore, Broker, the Commission finds that Respondent Moore has informed the Commission of his retirement and so will not be seeking reactivation of his license. His file is closed, and this matter may be revisited should Respondent Moore seek to regain a license.

As to Mary Carpenter, Salesperson, this Commission finds no further action needed.

So Ordered this the 19th day of NOVEMBER, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY: _____
ROBERT E. PRAYTOR, Administrator