

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 007-1902

HOLLY HARRISON RUBINSAK, PRINCIPAL BROKER
HARRISON REALTY, LLC

RESPONDENT

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 Holly Harrison Rubinsak, Broker. Prior to the hearing before the Commission, the parties announced their agreement as to the allegations of the Complaint and disciplinary action for Respondent, all as set forth herein. By entering into this Agreed Order, Respondent waives her rights to a hearing with full due process and to appeal any adverse decision which may have resulted 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 Holly Harrison Rubinsak, Broker, sometimes hereinafter "Respondent" or "Rubinsak" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 189 Lameuse St., Biloxi, Mississippi 39530. Respondent Rubinsak 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 management, sale and transfer of real estate and licensing of real estate brokers under Mississippi law. At all times relevant to this Complaint, Respondent Holly Harrison Rubinsak was the principal and responsible broker for Harrison Realty, LLC.

II.

On or about December 27, 2018, the Commission received a sworn complaint from Terry Do. Do complained that he had executed a property management agreement on or about January 2018 for management of rental properties he owned in Biloxi, Mississippi. The subject property management agreement was executed between Do and Charles T. Harrison Realty Agency, Inc. by its Principal Broker, Curtis Richard Harrison, Jr.

III.

Among other complaints, Do complained that he had received only a few deposits from his rental properties and only one management report, despite numerous requests to obtain same. Do complained that he ultimately contacted his attorney who was able to obtain two additional, partial payments for Do in November 2018 and one financial report. Do complained he was still owed rental payments and complete financial records. Upon receipt of Do's complaint, the Commission initiated an investigation of the matters alleged and the Commission requested a response from Curtis R. Harrison, Jr.

IV.

On or about January 9, 2019, a company real estate broker's license was issued to Harrison Realty, LLC with Respondent Rubinsak designated as the Principal Broker. Prior to establishing Harrison Realty, LLC, Rubinsak was a salesperson with Charles T. Harrison Realty Agency, Inc., also located at 189 Lameuse St. in Biloxi. Respondent Rubinsak received her broker's license on or about December 20, 2018, just prior to Do's sworn complaint to the Commission. Curtis Richard Harrison, Jr. was Principal Broker for Harrison Realty Agency, Inc. and the father of Respondent Rubinsak.

V.

On or about January 14, 2019, the real estate licenses of Curtis R. Harrison, Jr. and Charles T. Harrison Realty Agency, Inc. were received at the Commission offices along with an "inactive status" change form for Curtis R. Harrison, Jr. Some two weeks later, complainant Terry Do received a check in the amount of \$6,000.00 drawn on an account bearing the payor name "Charles T. Harrison Realty Agency, Inc." The check was dishonored for non-sufficient funds ("NSF").

VI.

After receiving no response from Curtis R. Harrison, and after the tender of Mr. Harrison's individual and company licenses to the Commission, the Commission investigator contacted Respondent Rubinsak for information concerning the issues and complaints raised by Mr. Do. On or about March 15, 2019, a response was received from Respondent Rubinsak. Rubinsak stated she had been a salesperson with her father's

brokerage Charles T. Harrison Realty Agency during the time period relevant to Do's allegations. Rubinsak claimed she had no involvement with the property management activities of her father's brokerage. Rubinsak explained that her father had returned his broker's license and placed same on inactive status due to numerous health issues, but she had forwarded the complaint to her father and he was compiling a response. On or about April 3, 2019, Rubinsak informed the Commission investigator that Curtis R. Harrison was in very poor health and was unable to respond to the Commission inquiry regarding Do's complaint. Ultimately, a letter was received from Curtis R. Harrison's wife, Donna Harrison, an unlicensed individual who worked in Mr. Harrison's brokerage and who was most familiar with the day-to-day operations of the rental accounts. Donna Harrison explained that Mr. Harrison's family had recognized by late 2018 that Mr. Harrison could no longer manage his business and that his licenses were returned to the Commission in early 2019.

VII.

During the Commission investigation, numerous irregularities were discovered in review of the Charles T. Harrison Realty Agency property management accounting records including more than \$6,000.00 in overdraft fees and commingling of significant monies through deposits of personal funds into an operating account.

VIII.

In statements and responses received by the Commission during its investigation, Respondent Rubinsak admitted and/or evidence established that Rubinsak took over the

operations of the Charles T. Harrison Realty Agency before the operations of that brokerage were properly wound down. Rubinsak admitted that her father's individual and company licenses were tendered to the Commission before all business of his brokerage had been finalized.

IX.

After the tender of Mr. Harrison's individual and company licenses to the Commission in early January 2019, a sign on the building where Respondent Rubinsak's brokerage is located continued to advertise the name of the business as the "Charles T. Harrison Realty Agency" until at least June 2019. Respondent Rubinsak admitted during the Commission investigation that "most of the clientele [of the Charles T. Harrison Realty Agency] did transfer over" to Rubinsak's agency. Rubinsak stated she was in the process of "phasing out" property management activities.

X.

In one or more instances during the Commission investigation, Respondent Rubinsak failed to timely respond to the Commission Investigator's inquiries, often necessitating follow up communications to obtain information relevant to the Commission investigation.

CONCLUSIONS OF LAW

XI.

The Commission and Respondent agree the above and foregoing acts and omissions of Respondent constitute violations of the Mississippi Real Estate Brokers License Act of

1954, as amended, Miss. Code Ann. §§73-35-1, *et seq.*, and the Rules and Regulations of the Commission and, more specifically, Miss. Code Ann. §§73-35-21(1)(d) and (n), and Rule 3.1F which provide, in relevant parts:

§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 the full power to refuse a license for cause or to revoke or suspend a license ... where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(d) Any misleading or untruthful advertising;

(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 3.1F Any licensee who fails in a timely manner to respond to official Mississippi Real Estate Commission written communication or who fails or neglects to abide by Mississippi Real Estate Commission's Rules and Regulations shall be deemed, *prima facie*, to be guilty of improper dealing.

DISCIPLINARY ORDER

Upon agreement and consent of Respondent as to disciplinary terms and disposition of this 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. The license of Respondent Holly Harrison Rubinsak shall be suspended for a period of three (3) months (ninety days) beginning October 1, 2020.
2. Following the period of suspension , the license of Respondent shall be on probation for a period of nine (9) months.
3. During the period of suspension, Respondent shall 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 may not be the same course from the same provider as taken by Respondent during the last renewal period. The mandatory continuing education hours shall be in addition to any hours required for renewal of Respondent's license. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.
4. This Agreed Order shall be effective upon execution by the Commission.

THIS, the 8th day of SEPTEMBER, 2020.

MISSISSIPPI REAL ESTATE COMMISSION

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

AGREED:

Holly Harrison Rubinsak
HOLLY HARRISON RUBINSAK

DATE: 9/3/2020