BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION COMPLAINANT

VS. NO. 049-1809

TENA M. TAYLOR, BROKER;
BLAKE CANNON, BROKER ASSOCIATE and
ALISON ALGER, SALESPERSON 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 Tena M. Taylor, Broker, Blake Cannon, Broker Associate, and Alison Alger, Salesperson. Prior to hearing before the Commission, the parties announced their agreement as to the allegations of the Commission complaint and disciplinary action for 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 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 Tena M. Taylor, Broker, sometimes hereinafter "Respondent" or "Taylor" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1923 University Avenue, Oxford, Mississippi 38655. Respondent Taylor 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. At all relevant times to this Complaint, Respondent Taylor was the Responsible Broker for RE/MAX Legacy Realty in Oxford, Mississippi and for Broker Associate Blake Cannon and Salesperson Alison Alger.

II.

Respondent Blake Cannon, Broker Associate, sometimes hereinafter "Respondent" or "Cannon," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1923 University Avenue, Oxford, Mississippi 38655. Respondent Cannon 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.

III.

Respondent Alison Alger, Salesperson, sometimes hereinafter "Respondent" or "Alger," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1923 University Avenue, Oxford, Mississippi 38655. Respondent Alger 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, 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 salespersons under Mississippi law.

IV.

On or about September 5, 2018, the Commission received a sworn statement of complaint from Joseph B. Gooch (sometimes hereinafter "Gooch"). Gooch complained that he had

purchased a home located at 135 Oxford Creek Drive in Oxford, Mississippi in 2016. Gooch, a Captain in the U.S. Army, was subject to periodic relocation by the military. Prior to his ordered relocation to Oxford, Mississippi, Gooch and his family were living in North Carolina where he was then stationed. Gooch retained the services of Respondent Alison Alger as buyer's agent to help him find a home for his family in Oxford. Over a period of several months in early 2016, Alger and Gooch communicated extensively through email and telephone conversations while searching for a suitable property.

V.

Gooch informed Alger during his property search that his wife was "not blown away" by the market of available properties in Oxford and inquired about locating a rental property for a year or two. Ultimately, Gooch purchased the Oxford Creek property, a new construction, which was listed by Respondent Blake Cannon. Thus, Gooch was represented by Respondents Cannon and Alger in a dual agency representation in the purchase.

VI.

In 2018, Gooch received orders he would be relocated to Colorado. Gooch was unsuccessful in locating a buyer for his Oxford Property and ultimately identified a candidate for a long-term rental. Although it was common knowledge in the community that there were homes being rented out periodically in Oxford Creek, the restrictive covenants for Oxford Creek prohibit rentals, with exceptions made in the discretion of the Oxford Creek Homeowners Association ("HOA"). Likewise, it was common knowledge that numerous homes were rented out in Oxford Creek for busy football weekends. Gooch applied to the HOA for a hardship exception to the rental prohibition but was repeatedly denied. Gooch complained that being denied the opportunity to rent his property after being relocated to Colorado caused his family to suffer financially.

VII.

In complaint to the Commission, Gooch complained that the subject restrictive covenants were not provided him until some twenty (20) days after closing. Gooch complained he had numerous long-distance conversations with Alger during his property search and that Alger was well aware that his military assignment involved periodic relocation, which was the reason his family was being relocated from North Carolina to Mississippi. Gooch complained that he was never informed before purchasing in Oxford Creek that he would be prohibited from renting his home if it became necessary and that he would never have purchased the property had he been so informed. Gooch claimed that Alger had failed to represent his interests in the transaction by not informing him of the restrictive covenants and explaining the prohibition on rentals in the neighborhood.

VIII.

During the Commission investigation, responses to Gooch's allegations were requested from Respondents. Respondent Alger responded that she was "not privy" to the rental restrictions in Oxford Creek and that the subject restrictive covenants were "public record and change often." Alger claimed Gooch had never requested the covenants from her.

IX.

Respondent, Associate Broker Blake Cannon provided a response to the Commission acknowledging his dual agency representation of Gooch. Cannon stated that Gooch had been provided with the "Property Issues Addendum" during the transaction that "provided [Gooch] with proper advice on seeking information from the HOA and its covenants." Likewise, Respondent and Responsible Broker Tena Taylor stated she had no evidence Gooch had ever requested the covenants from Respondent Alger during her representation. Taylor responded that the Property

Issues Addendum and warranty deed for the transaction mentioned "the instructions for the buyer of the subdivision covenants."

X.

During the Commission investigation, the Commission obtained evidence that Respondent Blake Cannon is himself a homeowner in Oxford Creek and was so at the time Gooch purchased his home in the neighborhood. It is clear that Respondent Cannon was aware of and familiar with the subject covenants and restrictions during the dual agency representation of the seller and buyer Gooch. Respondent Blake Cannon did not deny that neither he nor Respondent Alger ever provided or explained the covenants and restrictions to Gooch prior to closing. As dual agents, Respondents Blake Cannon and Alison Alger, and Responsible Broker Tena Taylor, had knowledge of the circumstances of their buyer Gooch's property needs and knowledge of the covenants and restrictions of the Oxford Creek property which was the subject of the transaction in which Gooch was represented.

CONCLUSIONS OF LAW

XI.

The Respondents and Commission agree that the above and foregoing described acts and omissions of Respondents, if proved at a Commission hearing only upon clear and convincing evidence, could constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, Miss. Code Ann. §§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, 4.2G (3) and (5) which provide, in relevant parts:

§73-35-21(1):

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(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 3.1A 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.

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

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(3) 'Disclosure' –the agent must disclose to the principal any information the agent becomes aware of in connection with 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 the Respondents 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 licenses of each of the Respondents TENA M. TAYLOR, BLAKE CANNON and ALISON ALGER shall be suspended for a period of one (1) month, said suspensions to be held in abeyance. During the period of suspensions in abeyance, Respondents Taylor, Cannon and Alger shall be permitted to continue the practice of real estate in the State of Mississippi insofar as Respondents, and each of them, comply with all Mississippi Real Estate Commission statutes, rules and regulations and all other terms of this Agreed Order; and
2. Following the period of suspensions held in abeyance, the licenses of each of the Respondents shall be placed on probation for a period of five (5) months; and

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

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

THIS the_____day of _____, 2019.

MISSISSIPPI REAL ESTATE COMMISSION

BY:_____
ROBERT E. PRAYTOR, Administrator

AGREED:

Tena M Taylor DATE 9/20/19
TENA M. TAYLOR

DATE 9/19/19
BLAKE CANNON

Alison Alger DATE 9/19/19
ALISON ALGER