

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 46-1907

**CHRISTA A. SAULTERS, PRINCIPAL BROKER,
SHANNON D. YAWN, 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 against Christa A. Saulters, Principal Broker and Shannon D. Yawn, Salesperson. Prior to the hearing before the Commission, the parties announced their respective agreements as to the allegations of the Commission Complaint and disciplinary actions 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 rights to appeal any adverse decision which may have resulted from that hearing. Further, Respondents acknowledge that this Agreed Order must be approved by the Commission and so expressly waive any objections they may have as to the full Commission taking up this matter preliminarily for purposes of considering approval of this Agreed Order. Respondents acknowledge and agree that should the Commission reject approval of this Agreed Order, Respondents will retain their rights to proceed to an administrative hearing before the Commission with full due process. Having reached individual agreements on

this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

I.

Respondent Christa A. Saulters, sometimes hereinafter “Respondent” or “Saulters,” is a Mississippi Resident Broker whose last known address of record with the Commission is 119 Mayfair Road, Hattiesburg, Mississippi 39402. Respondent Saulters 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 times relevant to the allegations of this Complaint, Respondent Saulters was the Principal Broker for Re/Max Real Estate Partners and for Respondent salesperson Shannon D. Yawn.

II.

Respondent Shannon D. Yawn, sometimes hereinafter “Respondent” or “Yawn,” is a Mississippi resident Salesperson whose last known address of record with the Commission is 119 Mayfair Road, Hattiesburg, Mississippi 39402. Respondent Yawn 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.

III.

On or about July 17, 2019, the Commission received a sworn statement of Complaint from Ronnie and Linda Morris sometimes collectively hereinafter “Complainants” or “Morris.” Morris claimed they had purchased a home located at 21 Stonecrest, Hattiesburg, Mississippi 39402 in a transaction wherein Respondent Yawn was agent for the seller. Morris complained the home had damage from a prior infestation of termites that was known by the prior owners and Yawn, but which had not been disclosed and which caused Morris damages.

IV.

The property had been listed for sale with Yawn on or about June 3, 2016 by then owners Brian and Emily Byrd who had purchased the property in 2011. Yawn had represented the Byrd’s as buyer’s agent in the 2011 purchase. In 2017, after the Byrds had the property on the market for more than a year, the property was purchased by Mr. Byrd’s employer, Plains All American (“Plains”), Mr. Byrd having relocated out of state. On or about September 6, 2017, Plains listed the property for sale again with Yawn as agent.

V.

Morris complained that prior to purchasing the home, the Morris’ buyer’s agent, Graham, inquired why there was no PCDS available from the seller, Plains. Graham was informed Plains did not wish to give the required PCDS. Ultimately, Plains submitted a PCDS that was “lined out” and otherwise disclosed no information about the property. There was available an earlier PCDS from the time the Byrds had first listed the home with

Yawn in 2016. This 2016 PCDS which contained Yawn's signature, reflected an issue with previous termite infestation/treatment but did not disclose the existence of termite damage or any termite damage repairs. Yawn informed the buyer's agent Graham she knew nothing about any termite damage.

VI.

Prior to closing, seller Plains obtained a pre-purchase pest inspection from Green Pest Control on or about March 21, 2019. Green Pest Control issued a report finding no evidence of wood-destroying pests, nor any previous treatment or damage. Closing occurred on April 16, 2019.

VII.

Morris complained that, after closing, a painter discovered extensive prior termite damage in a bedroom. Molding and sheetrock were removed around a window that exposed damage all the way to the corner of the home, an area of approximately 6' x 9'. Morris complained of damages exceeding \$3,000 and diminution of value to the home. Following discovery of the existing damage, Morris ordered another pest inspection which was performed by Vortek Pest Control on July 11, 2019. The Vortek report disclosed prior termite damage, carpenter bee damage/activity and signs of previous termite treatment.

VIII.

Prior to the Byrds' listing of the property with Respondent Yawn in June 2016, the Byrds contracted with Havard Pest Control for treatment of termites and termite damage in May 2016, less than a month before listing the property with Yawn. Morris alleged that a copy of the May 9, 2016 Havard Pest Control contract was discovered in the home by

Morris after discovery of the undisclosed damage. The Havard contract reflected the existence of an active infestation, visible damage and vertical drilling. The Havard contract reflected termite damage in the exact location of the undisclosed damage later discovered by Morris' painters after closing.

IX.

The PCDS executed by the original owners (Byrd) in June 2016, also signed by Respondent Yawn, reflected only the fact of prior termite treatment but failed disclose the existence of termite damage which damage was clearly known as reflected on the documentation from Havard Pest Control dated May 9, 2016. As agent for the original owners (Byrd), Respondent Yawn knew, at a minimum, there had been termite treatment prior to the listing of the home. Yawn had a duty to review the Havard documentation which clearly reflected the damage later discovered by Morris. As agent for the ultimate seller, Plains, Respondent Yawn had a duty to disclose to her client, and the buyer Morris, that information known to her, or which could have been discovered and disclosed with reasonable and diligent effort, and the exercise of ordinary care.

X.

The Respondents and Commission agree the above and foregoing acts and omissions of Respondents, if proved at a Commission hearing 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.*, and the Rules and Regulations of the Commission and, more specifically, Miss. Code Ann. §73-35-21(1), §89-1-505, and Rules 3.1 and 4.2, 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:

- (n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates ...incompetency ...or improper dealing...;

§89-1-505

- (1) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy or omission of any information delivered pursuant to Sections 89-1-501 through 89-1-523 if the error, inaccuracy or omission was not within the personal knowledge of the transferor or that listing or selling agent ...and ordinary care was exercised in obtaining and transmitting it.

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 3.1F Any licensee ... 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.

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

- (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 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:

AS TO LICENSEE, CHRISTA A. SAULTERS, PRINCIPAL BROKER:

1. The license of Respondent Saulters shall be suspended for one (1) month (thirty days), held in abeyance. During the period of suspension in abeyance, Respondent Saulters will be permitted to practice real estate in the State of Mississippi insofar as she complies with all statutes, rules and regulations governing the practice of real estate in Mississippi and with all other terms of this Agreed Order.
2. Following the period of suspension in abeyance, the license of Respondent Saulters shall be on probation for a period of five (5) months.
3. During the period of suspension in abeyance, Respondent Saulters 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 Respondent Saulters' license and shall not be the same continuing education course from the same course provider previously completed for renewal of Respondent's

license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

4. Respondent Saulters expressly waives any objections she may have as to the full Commission taking up this matter preliminarily for purposes of consideration of approval of this Agreed Order. Respondent acknowledges and agrees that should the Commission reject approval of this Agreed Order, Respondent will retain her right to proceed to an administrative hearing before the Commission with full due process.
5. This Agreed Order shall be effective as to Respondent Saulters upon approval of the Commission as evidenced by execution by the Commission Administrator.

AS TO LICENSEE, SHANNON D. YAWN, SALESPERSON:

1. The license of Respondent Yawn shall be suspended for two (2) months (sixty days), held in abeyance. During the period of suspension in abeyance, Respondent Yawn will be permitted to practice real estate in the State of Mississippi insofar as she complies with all statutes, rules and regulations governing the practice of real estate in Mississippi and with all other terms of this Agreed Order.
2. Following the period of suspension in abeyance, the license of Respondent Yawn shall be on probation for a period of four (4) months.
3. During the period of suspension in abeyance, Respondent Yawn 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 Respondent Yawn's license and shall not be the same continuing education course from the same course provider previously completed for renewal of Respondent's license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

4. Respondent Yawn expressly waives any objections she may have as to the full Commission taking up this matter preliminarily for purposes of consideration of approval of this Agreed Order. Respondent acknowledges and agrees that should the Commission reject approval of this Agreed Order, Respondent will retain her right to proceed to an administrative hearing before the Commission with full due process.
5. This Agreed Order shall be effective as to Respondent Yawn upon approval of the Commission as evidenced by execution by the Commission Administrator.

THIS the 9th day of FEBRUARY, 2021.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

Robert E. Praytor
ROBERT E. PRAYTOR, Administrator

AGREED:

Christa A. Saulters
CHRISTA A. SAULTERS

DATE 2-4-2021

Shannon D. Yawn
SHANNON D. YAWN

DATE 2-4-2021

