

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

CASE NO. 82-1712

MEM1, LLC D/B/A KELLER WILLIAMS REALTY,  
NON-RESIDENT COMPANY, AND HAROLD E. BLOCKMAN,  
NON-RESIDENT BROKER

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.* on a formal complaint brought against Respondents MEM1, LLC d/b/a Keller Williams Realty, a non-resident company and Harold E. Blockman, non-resident broker. Prior to the hearing before the Commission, the parties announced their respective agreements as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the parties. Respondent Harold E. Blockman subsequently announced his intentions for the voluntary surrender of his license and closure of his Commission license file in lieu of further disciplinary proceedings or the potential imposition of discipline in this matter. By entering into this Agreed Order, Respondent MEM1, LLC d/b/a Keller Williams Realty waives its right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

## FINDINGS OF FACT

### I.

Respondent Mem1, LLC d/b/a Keller Williams Realty (sometimes hereinafter “MEM1” or “Keller Williams”), is a Tennessee limited liability company whose address of record with the Commission is 930 South White Station Rd., Memphis, Tennessee 38117. Respondent MEM1 maintains a Keller Williams branch office in Southaven, Mississippi with business address of record as 3964 Goodman Rd., Suite 105, Southaven, Mississippi 38672. Respondent MEM1 was licensed as a non-resident company by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, it is subject to all of the provisions, rules, regulations and statutes governing the sale of real estate and licensing of real estate business entities under Mississippi law.

### II.

Respondent Harold E. Blockman (sometimes hereinafter “Blockman”) is an adult resident citizen of Tennessee whose address of record with the Commission is 930 South White Station Rd., Memphis, Tennessee 38117. Respondent Blockman is the holder of a non-resident 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 of real estate and the licensing of real estate brokers under Mississippi law. At all times relevant to the allegations in the Commission’s formal complaint, Respondent Blockman was the Responsible Broker for the Mississippi branch office of Respondent MEM1, LLC d/b/a Keller Williams Realty.



### III.

On or about June, 2017, the Commission received information suggesting that out of state real estate licensees, not licensed as Mississippi nonresident brokers or salespersons and including persons associated or affiliated with Respondent MEM1, were alleged to be involved in activities attendant and/or negotiations for real estate transactions involving Mississippi properties without being licensed to practice real estate in Mississippi. Thereafter, the Commission began its investigation of the activities of Respondent MEM1, LLC d/b/a Keller Williams Realty.

### IV.

Commission staff and investigators interviewed Respondent Harold E. Blockman and requested information and documents, including information related to negotiations for and documentation of a certain real estate transaction for a property located on Manning Rd. in Nesbitt, Mississippi ("Manning Rd. property/transaction"). Documents obtained during the investigation reflect that the Manning Rd. transaction, which failed to go to contract or close, involved actions of and communications between Mississippi licensees of Respondent MEM1 and a Tennessee real estate licensee affiliated with Respondent MEM1/Keller Williams on "The Josh Hisaw Team" but not otherwise licensed to practice real estate in Mississippi. MEM1/Keller Williams licensee Josh Hisaw is likewise not licensed to practice real estate in Mississippi. All of the licensees referenced herein were under the direct supervision and responsibility of Respondent Harold E. Blockman as Principal/Responsible broker for Respondent MEM1, LLC d/b/a Keller Williams Realty.

## V.

Documents and evidence obtained during the Commission investigation reflect that a Tennessee licensee (sometimes hereinafter “Tennessee Licensee”) and member of “The Josh Hisaw Team” was working as a buyer’s agent for a certain Tennessee couple who were looking for a property to purchase in the Memphis, Tennessee area (sometimes hereinafter “the prospective buyers”). These prospective buyers had their Tennessee home listed for sale with another agent with The Josh Hisaw Team. The Tennessee licensee learned these prospective buyers were no longer interested in buying a home in Tennessee and wanted to look at properties in North Mississippi. Although not licensed in Mississippi, the Tennessee licensee invited the prospective buyers to provide her with a list of Mississippi properties they would like to see and informed the prospective buyers that she would continue to assist them by working together with a Mississippi licensee who was also on The Josh Hisaw Team with Keller Williams Realty. Later, this Tennessee licensee also compiled and transmitted a list of Mississippi properties to the prospective buyers for consideration.

## VI.

During the Commission investigation, the Commission received documentation reflecting that these prospective buyers did make an offer through Respondent MEM1/Keller Williams for the Manning Rd. property in Nesbitt, Mississippi. It is undisputed that, following the prospective buyers’ viewing of the Manning Rd. property, the Tennessee licensee with The Josh Hisaw Team of Keller Williams was the only licensee who ever personally spoke or messaged with the prospective buyers during the negotiations for the property transaction, which transaction failed to go to contract or close.

## VII.

Respondent MEM1 claimed during the investigation that its Tennessee licensee had requested a Mississippi licensed colleague on the Josh Hisaw Team to show these prospective buyers properties in North Mississippi but her colleague did not agree to conduct the showings. The referenced Mississippi licensee disputed this claim and claimed she knew nothing of these prospective buyers until the offer was made on the Manning Rd. property. It is undisputed that the Tennessee licensee found another agent with Respondent MEM1/Keller Williams who was licensed in Mississippi to show the Mississippi properties to the prospective buyers, including the Manning Rd. property for which they ultimately submitted an offer (sometimes hereinafter “other MEM1 licensee”). This other MEM1 licensee was not a member of The Josh Hisaw Team.

## VIII.

It is undisputed that the other MEM1 licensee working with Keller Williams in North Mississippi agreed to show the properties to these prospective buyers for \$25 cash paid by the Tennessee licensee for each showing. This compensation was not paid through MEM1 Responsible Broker Harold Blockman but was paid directly. This other MEM1 licensee was the first and only Mississippi licensee to meet with and show Mississippi properties to the prospective buyers before they made the offer for one of those properties, the Manning Rd. property.

## IX.

At least one of these properties shown to the prospective buyers was itself a Keller Williams listing in Olive Branch, Mississippi. No evidence was produced during the Commission investigation that this other MEM1 licensee ever presented the required Working With Real Estate

Broker Form or evidence of any disclosure or discussion of dual agency issues possibly attendant the representation of these prospective buyers by this MEM1 licensee.

X.

Ultimately, the prospective buyers decided to submit an offer on the Manning Rd. property. It is undisputed that the prospective buyers informed the Tennessee licensee of their desired offer. It is undisputed that an administrative assistant working with The Josh Hisaw Team uploaded the offer into the Keller Williams computer system and transmitted the offer to the seller's agent under the name of the Mississippi licensee with The Josh Hisaw Team. Respondents MEM1 and Blockman claimed during the investigation that the Mississippi licensed member of The Josh Hisaw Team was aware of and authorized the administrative assistant to upload and transmit the offer under her name but this was disputed by the Mississippi licensee. It is undisputed that the Tennessee Keller Williams licensee was the only licensee who personally interacted with the prospective buyers from that point forward. During the Commission investigation, the prospective buyers informed the Commission they never met or spoke with the Mississippi licensee with The Josh Hisaw Team whose name was reflected on their offer for the property.

XI.

It is undisputed that the Mississippi licensee on The Josh Hisaw team did become aware that the offer was submitted under her name and did inform the seller's agent that she would be the agent on the other side of the offer if it closed. However, all direct communications and personal messages involving the negotiations for the Manning Rd. property were had between the prospective buyers and the Tennessee licensee only. When the prospective buyers' initial offer was rejected, it was the Tennessee licensee who so informed the prospective buyers. And, it was

the Tennessee licensee who discussed with the prospective buyers how to respond to the rejection by removing the contingency regarding the sale of their Tennessee home. When this second offer was also rejected, it was the Tennessee licensee, and not a Mississippi licensee that delivered that news to the prospective buyers.

## XII.

Respondents MEM1 and Blockman fully cooperated with the Commission investigation and supplied all documentation requested reflecting the unsuccessful Manning Rd. transaction and documents were also obtained from the unsuccessful prospective buyers of the property who worked with the Tennessee licensee with The Josh Hisaw Team. Subsequently, the Commission obtained from Respondent MEM1 documentation of other transactions that closed for Mississippi properties through Respondent MEM1/Keller Williams Realty for an approximate twelve month period immediately preceding the Commission investigation.

## XIII.

In review of the documentation of additional transactions supplied by Respondent MEM1 for the referenced period, the Commission identified a significant number of transactions closed for Mississippi properties wherein persons not licensed in Mississippi received compensation for the transactions, without evidence of the license required by Mississippi law, without evidence of satisfaction of the requirements for exemption from Mississippi licensure, and without submission of properly completed Cooperative Agreements when applicable and as provided for in Miss. Code Ann. §73-35-11.

XIV.

The Commission alleged that, based on review of the numerous documents and other evidence obtained during the Commission investigation and Commission records, the Responsible/Principal Broker for MEM1/Keller Williams Realty, Respondent Harold Blockman, knew or should have known that certain licensees under his supervision and responsibility, and other persons and entities unaffiliated with the MEM1 brokerage, received compensation for transactions involving Mississippi properties closed through the MEM1/Keller Williams brokerage, without the Mississippi license required by law, and in certain instances without completion of certain of the required forms and/or disclosures required by law and/or the rules and regulations of the Commission.

XV.

Upon notice of the Commission and prior to issuance of the Commission's Complaint, Respondent MEM1 d/b/a Keller Williams notified the Commission of the removal of Blockman from his role as Principal, Responsible Broker and the installation of a new Principal Broker to serve as Responsible Broker for MEM1/Keller Williams.

XVI.

Prior to the Commission hearing scheduled for this matter, Respondent Harold E. Blockman announced to the Commission his intentions for the voluntary surrender of his non-resident broker's license and closure of his Commission license file in lieu of further disciplinary proceedings or the potential imposition of discipline in this matter.

## CONCLUSIONS OF LAW

The Commission finds that the foregoing acts and omissions of the Respondents, if proved at hearing, would 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. §73-35-11, §73-35-31(3), 73-35-21(1)(j) and (n) and Rules 3.1A, 3.1C, 3.1E and 3.1F which provide in relevant parts:

Miss. Code Ann. §73-35-11:

It shall be unlawful for any licensed broker, salesperson or other person who is not licensed as a Mississippi resident or nonresident broker or salesperson and a licensed salesperson in this state to perform any of the acts regulated by this chapter, except that a licensed broker of another state who does not hold a Mississippi real estate license may cooperate with a licensed broker of this state provided that any commission or fee resulting from such cooperative negotiation shall be stated on a form filed with the commission reflecting the compensation to be paid to the Mississippi broker.

Miss. Code Ann. §73-35-31(3):

No fee, commission or other valuable consideration may be paid to a person for real estate brokerage activities as described in subsection (1) of 73-35-3 unless the person provides evidence of licensure under the provisions of this chapter or provides evidence of a cooperative agreement provided under the authority of Section 73-35-11.

Miss. Code Ann. §73-35-21(1)(j):

[P]aying any rebate, profit or commission to any person other than a real estate broker or salesperson licensed under the provisions of this chapter.

Miss. Code Ann. §73-35-21(1)(n):

Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent 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 3.1C:

A licensed Mississippi broker may cooperate with a broker licensed in another state who does not hold a Mississippi license through the use of a cooperative agreement. A separate cooperative agreement must be filed for each property, prospective user or transaction with said writing reflecting the compensation to be paid to the Mississippi licensed broker...

Rule 3.1 E:

No licensee shall pay any part of a fee, commission, or other compensation received by such licensee in buying, selling, exchanging, leasing, auctioning or renting any real estate except to another licensee through the licensee's responsible broker.

No licensee shall knowingly pay a commission, or other compensation to a licensed person knowing that licensee will in turn pay a portion of all of that which is received to a person who does not hold a real estate license...

Rule 3.1 F:

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.

DISCIPLINARY ORDER

By consent and agreement, the Commission hereby issues upon the non-resident company license of Respondent MEM1, LLC d/b/a Keller Williams Realty the following discipline:

**FORMAL LETTER OF REPRIMAND WITH CONDITIONS**

Respondent MEM1, LLC d/b/a Keller Williams Realty, by and through its authorized representative, signature of whom is affixed hereto, expressly agrees to the following conditions:



- a. Respondent agrees to designate and install a resident, supervising broker within the Mississippi branch office of MEM1, LLC d/b/a Keller Williams Realty within ninety (90) days of the effective date of this Agreed Order;
- b. Respondent agrees to submit Cooperative Agreements for all applicable transactions and to strictly comply with all Commission statutes, regulations and requirements regarding intercompany and intracompany transactions where compensation is paid to persons not licensed in Mississippi;
- c. Respondent agrees to maintain a log of all referral agreements and filed Cooperative Agreements and shall make same available for inspection by the Commission upon reasonable notice;
- d. Respondent agrees to be subject to a twelve (12) month Compliance Monitoring Period and subject to on-site inspection, at Commission discretion upon reasonable notice, for compliance with Commission statutes, rules and regulations; and
- e. Respondent shall select and provide at its expense a conference room or other facility suitable to conduct a two (2) hour continuing education (CE) course, mandatory for all Mississippi licensees of MEM1, LLC d/b/a Keller Williams Realty. At no further cost to Respondent, this course will be conducted by the staff of the Mississippi Real Estate Commission on a date within sixty (60) days of the effective date of this Agreed Order and shall cover curriculum and topics as may be designated at the discretion of the staff of the Mississippi Real Estate Commission.

This Agreed Order shall be effective upon the date of its execution by the Commission.

This the 21<sup>st</sup> day of February, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

  
ROBERT E. PRAYTOR  
ADMINISTRATOR

AGREED:

MEM1, LLC D/B/A KELLER WILLIAMS REALTY

BY:



CINDY WARD

(Print Name)

ITS:

CEO / TEAM LEADER



**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 029-1805**

**ERIC J. BRADLEY, PRINCIPAL BROKER**

**RESPONDENT**

**AGREED 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 Eric J. Bradley, Broker, and the Commission was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondent waives his right to a full hearing and his right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent Eric J. Bradley, sometimes hereinafter "Respondent Bradley" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1701 Hwy 43 N, Ste. 2, Picayune, MS 39466. Respondent Bradley 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law.

## II.

The Commission received information that Respondent Bradley was knowingly allowing an unlicensed property manager to engage in licensable activity and, further, that various real estate transaction forms were not properly completed in that they were being signed by the unlicensed employee. Thereafter, the Commission opened its investigation of the matter.

## III.

In his response, Respondent Bradley denied that the property manager was engaging in licensable activity. However, by affidavit, the property manager, Misty Benke, who is now an applicant for a salesperson license, acknowledged that she showed dwelling units to prospective tenants and, further, signed leases as though with the apparent authority of a licensee, despite there being a licensed agent available.

The above and foregoing described acts and omissions of the Respondent constitutes 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, §73-35-3 and §73-35-21(1)(n), which provide, in relevant parts:

### **§ 73-35-3. Definitions; applicability of chapter**

The term "real estate broker" within the meaning of this chapter shall include all persons, partnerships, associations and corporations, foreign and domestic, who for a fee, commission or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, list, sell, purchase, exchange, rent, lease, manage or auction any real estate, or the improvements thereon, including options; or who negotiate or attempt to negotiate any such activity; or who advertise or hold themselves out as

engaged in such activities; or who direct or assist in the procuring of a purchaser or prospect calculated or intended to result in a real estate transaction. The term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary or upon fee, commission or otherwise, to sell such real estate, or parts thereof, in lots or other parcels, including timesharing and condominiums, and who shall sell, exchange or lease, or offer or attempt or agree to negotiate the sale, exchange or lease of, any such lot or parcel of real estate.

(2) The term "real estate" as used in this chapter shall include leaseholds as well as any and every interest or estate in land, including timesharing and condominiums, whether corporeal or incorporeal, freehold or non freehold, and whether said property is situated in this state or elsewhere; provided, however, that the term "real estate" as used in this chapter shall not include oil, gas or mineral leases, nor shall it include any other mineral leasehold, mineral estate or mineral interest of any nature whatsoever.

(3) One (1) act in consideration of or with the expectation or intention of, or upon the promise of, receiving compensation, by fee, commission or otherwise, in the performance of any act or activity contained in subsection (1) of this section, shall constitute such person, partnership, association or corporation a real estate broker and make him, them or it subject to the provisions and requirements of this chapter.

(4) The term "real estate salesperson" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in subsection (1) of this section, for compensation or otherwise.

**§73-35-21(1)(n)** Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates...incompetency... or improper dealing...

### **DISCIPLINARY ORDER**

THEREFORE, by agreement, understanding and consent, the Commission ORDERS discipline as follows:

As to Eric J. Bradley, Broker, the Commission orders that his license incur a one (1) month suspension followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first thirty (30) days after Respondent Bradley signs this order. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Misty Benke, Applicant, the Commission orders that her license incur a one (1) month inactive status and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing thirty (30) hours of Mandatory post-licensing classes prior to her license becoming active. These classes will be courses approved by this Commission, be in addition to

the regular hours of continuing education already required of licensees for a license. Evidence of completion of these classes is to be provided to this Commission.

This the 7<sup>th</sup> day of August, 2018.

MISSISSIPPI REAL ESTATE COMMISSION



BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

Agreed:

Eric J. Bradley  
Eric J. Bradley, Broker

DATE:

8-7-18

Acknowledged:

Misty Benke

DATE:

8-7-18

Misty Benke, license Applicant

**THE STATE OF MISSISSIPPI  
THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 078-1608**

**SUSAN STEPHANIE SHAW, BROKER  
CAROLINE P. BROOKS, SALESPERSON**

**RESPONDENTS**

**AGREED 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 Susan Stephanie Shaw, Broker, and Caroline P. Brooks, Salesperson, and the Commission, was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their right to a full hearing and their right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent Susan Stephanie Shaw, hereinafter “Respondent” or “Shaw”, is an adult resident citizen of the state of Mississippi whose last known address of record with the Commission is 777 Watkins Ave., Gulfport, MS 39507. Respondent Shaw 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers under Mississippi law.



Respondent Shaw is the Principal Broker of the Brokerage Firm, Latter and Blum Shaw Properties and is the responsible broker for Respondent Caroline P. Brooks.

## II.

Respondent Caroline P. Brooks, hereinafter "Respondent" or "Brooks," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 777 Watkins Ave., Gulfport, MS 39507. Respondent Brooks 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 the provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers and salespersons under Mississippi law.

## III.

The Commission received a sworn complaint from Sherman & Leslie Wilson, sometimes hereinafter collectively called "buyers" or "Wilson." The complaint came to the Commission following a completed transaction for the purchase of vacant property located on Dixie Oaks Drive in the Rushing Oaks subdivision located in Harrison County, MS. Respondent Brooks was the listing agent who provided the information for the MLS listing, showing this parcel in question as having both water and sewer service. The Wilsons complained that after the transaction closed, it was discovered that the parcel did not have sewer service and that Respondent Brooks had failed to determine the accuracy of the MLS listing and subsequently failed to correct or disclose the erroneous information to all parties with regard to the sewer service.

Thereafter, the Commission opened its investigation of this matter.

#### IV.

The investigation revealed that the Wilsons had contacted Carrie Cole of Coldwell Banker Alfonso Realty in Gulfport, MS regarding searching for an empty lot upon which to build a dwelling. Cole searched MLS listings and found the listing on Dixie Oaks Drive in the Rushing Oaks subdivision, listed by Respondent Caroline Brooks, agent with Latter and Blum Shaw Properties. Cole inquired of Respondent Brooks whether this parcel had water and sewer, as that was a condition and requirement of the Wilsons. Respondent replied that the parcel did have both services. Subsequently, an offer was made in February of 2016 and the transaction closed in March of 2016.

#### V.

Later, in June of 2016, the Wilsons contacted agent Cole stating that they had a building contractor view the purchased lot and were informed that sewer service was not available and that septic tank services would be required.

#### VI.

Ultimately, it was learned through investigation that Respondent Brooks had assumed that water and sewer service were together, had failed to timely ascertain the accuracy of the MLS information and had failed to subsequently correct the error, all as required. Further, neither Respondent Brooks nor Respondent Shaw, responsible broker, had discovered the error or informed the buyers regarding the erroneous description of the parcel having sewer service.

## VII.

The above and foregoing described acts and omissions of the Respondents 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 & Regulations of the Commission, more specifically, §73-35-21(1)(a) and (n) and Commission Rules 3.1A and 4.2.G.5 which provide, in relevant parts:

**§73-35-21(1)(a)** Making any substantial misrepresentation in connection with a real estate transaction;

**§73-35-21(1)(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. 5.** “Fiduciary responsibilities” are those duties due the principle in a real estate transaction, including:

(5) reasonable skill, care and diligence’ - the agent must perform all duties with care and diligence which may be expected of someone undertaking such duties.

### **DISCIPLINARY ORDER**

THEREFORE, by agreement, understanding and consent, the Commission ORDERS discipline as follows:

As to Susan Stephanie Shaw, Broker, the Commission orders that her license incur a one (1) month suspension, held in abeyance, and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first thirty (30) days after Respondent Shaw signs this order. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Caroline P. Brooks, Sales Agent, the Commission orders that her license incur one (1) month of full suspension, followed by an additional two (2) months of suspension held in abeyance and then nine (9) months of probation, all contingent upon her future compliance with all Mississippi Real Estate statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract Law and 2 hours of License Law) during her one month of full license suspension. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, will be in addition to the regular hours of

continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission. Brooks's full suspension will start April 1, 2018 and end May 01, 2018 and will be immediately followed by the suspension months being held in abeyance, and then the probation period.

SO FOUND AND ORDERED this the 12<sup>th</sup> day of March, 2018.

**MISSISSIPPI REAL ESTATE COMMISSION**



BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

Susan Stephanie Shaw, Broker

DATED: March 12, 2018

AGREED:

Caroline P. Brooks, Sales Agent

DATED: March 12, 2018

**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 014-1803**

**ERNEST ALFRED BUHRER, BROKER  
MICHAEL A. WEBB, 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. on a formal complaint brought against Respondents Ernest Alfred Buhrer, Broker and Michael A. Webb, Salesperson. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondent, Ernest Alfred Buhrer, Broker. This agreement is to the suspension of Respondent Buhrer's license in lieu of further disciplinary proceedings. By entering into this Agreed Order, Respondent Ernest Alfred Buhrer waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:

## I.

Respondent, Ernest Alfred Buhrer (hereinafter called "Buhrer" or "Respondent"), is an adult resident citizen of Mississippi whose last known address of record is 201 Mayson Ave., Columbia, MS 39429. Respondent Buhrer holds 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 administrative rules of this Commission.

Respondent, Michael A. Webb, (sometimes hereinafter called "Webb" or "Respondent"), is an adult resident citizen of MS whose last known address of record is 1610 Ridgewood Dr., Columbia, MS 39429. Respondent Webb holds a sales 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 Miss. law and the administrative rules of the MS Real Estate Commission. Respondent Buhrer is the Principal Broker over salesperson, Michael Webb.

## II.

In March of 2018, the Commission received an anonymous mailing that consisted of a color photograph depicting a real estate property sign posted on property for sale in the Columbia, MS area. This signage displayed the names of the Respondents as Micky Webb, Agent with Fred Buhrer Real Estate. Without any explanation included, the Commission staff then investigated who these licensees were and why this picture might matter. This cursory examination revealed that since July of 2015, Respondent Webb 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 Webb by the Commission by letter on August 4, 2015. On July 24, 2016, the Commission received Respondent's signed license renewal application form; said form clearly showing his license in inactive status.

### **III.**

Notwithstanding Respondent Webb's license status, Respondent Webb continued to market and did market multiple properties and engage in other licensable activities. Respondent Buhrer, Principal Broker, signed documents involved in at least some of these transactions and so had direct knowledge of the activities of his salesperson, Respondent Michael Webb. Agency law of Mississippi inputs this knowledge to Respondent Buhrer, as well. Additionally, some of these transactional documents are lacking in material terms, such as the selling prices in listing agreements and no informational statement for the property condition disclosure statement.

### **IV.**

As a result of this discovery, Respondent' Buhrer's online website was viewed, both as a means of confirming Respondent Webb's relationship held out to the public by Respondent Buhrer, and for contact information as to Buhrer. It was then discovered that Buhrer had 3 other persons listed as agents on his website that were not now and had not been agents with Respondent Buhrer for two years or more. Additionally, Respondent Webb's name was not shown on this website.



## FINDINGS AND CONCLUSIONS

This Commission finds that Respondent Buhrer knowingly and willfully knew and allowed salesperson Michael Webb to perform licensable activities of real property during a time when Webb's real estate license was on inactive status. Further, the Commission finds that Respondent Buhrer publicly advertised salespersons who were not licensed under him as Principal Broker. Said conduct evidences a careless or reckless indifference and demeanor toward the Commission Rules and warrants severe sanctions being imposed against Respondent Buhrer.

This Commission further finds that the above and foregoing described acts of the Respondent Ernest Alfred Buhrer constitute violations of Miss. Code Ann. §73-35-1, et seq. and MREC Administrative Rules, in particular:

**Miss. Code Ann. §73-35-1:** cited, as "the Real Estate Brokers License Law of 1954"; 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 3.2 Documents**

B. All exclusive listing agreements shall be in writing, properly identify the property to be sold, and contain all of the terms and conditions under which the transaction is to be consummated; including the sales price, the considerations to be paid, the signatures of all parties to the agreement, and a definite date of expiration. No listing agreement shall contain any provision requiring the listing party to notify the broker of their intention to cancel the listing after such definite expiration date. An "Exclusive Agency" listing or "Exclusive Right to Sell" listing shall clearly indicate in the listing agreement that it is such an agreement.

### **Rule 3.3 Advertising**

A. The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as "substantial misrepresentation" and cause for refusal, suspension, or revocation of the license.

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.

### DISCIPLINARY ORDER

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:


As to Ernest Alfred Buhrer, Principal Broker, the Commission orders that his license incur a six (6) month suspension period and be immediately followed by six (6) months of probation; contingent upon both his future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during those six months of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him for license renewal and will not be the same classes from the same provider as those used by this Respondent in his last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Buhrer's full suspension will start Sept. 01, 2018 and will be immediately followed by the six (6) month probation period.

SO FOUND AND ORDERED this the 9<sup>th</sup> day of August, 2018.



MISSISSIPPI REAL ESTATE COMMISSION

  
ROBERT E. PRAYTOR, Administrator

Agreed: 

Ernest Alfred Buhrer, Respondent

Date: 08/07/2018

**IN THE STATE OF MISSISSIPPI  
THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 020-1804**

**JAMES W. CARSON, JR., BROKER  
CANDACE ELEASE THOMAS, SALESPERSON**

**RESPONDENTS**

**AGREED 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 W. Carson, Broker, and Candace Elease Thomas, Salesperson, and the Commission, was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their right to a full hearing and their right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent James W. Carson, Jr., sometimes hereinafter "Respondent" or "Carson", is an adult resident citizen of Mississippi whose last known address of record with the Commission is 537 Lake Pointe Lane, Madison, MS 39110. Respondent Carson 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 the provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law. Respondent Carson is the responsible broker for Respondent Candace Elease Thomas.

## II.

Respondent Candace Elease Thomas, sometimes hereinafter “Respondent” or “Thomas,” is an adult resident citizen of Miss., whose last known address of record with the Commission is 2425 S. Pearson Rd, Pearl, MS 39208. Respondent Thomas is the holder of a real estate salesperson’s license issued by the Commission pursuant to M. C. A. §§73-35-1, *et seq.*, as amended and, as such, she is subject to the provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under MS law.

## III.

The Commission received a complaint call from Elizabeth Knight, Broker, sometimes hereinafter called “Knight.” Knight complained to the Commission following an attempted transaction for the purchase of Knight’s client’s home located at 1739 Douglas Drive in Jackson, MS. Respondent Thomas was the buyer’s agent. The contract for the attempted purchase had expired without the parties closing on the transaction. Knight complained that it was first discovered that Respondent Thomas had failed to collect and deposit the \$ 2,000.00 earnest money specified in the contract for a considerable period and otherwise failed to disclose information regarding the earnest money to all parties. Then it was learned that the earnest money tendered by the buyer had later been deposited with the closing attorney. Thereafter, the Commission opened its investigation of the matter.

## IV.

On or about March 16, 2018, a potential offer, made through Respondent Thomas, to purchase a home located at 1739 Douglas Dr. in Jackson, MS was accepted by Broker Knight’s client. Among other terms, the contract specifically provided that an earnest money amount of \$ 2,000.00 would be provided by the buyer.

## **V.**

Upon notification by the seller of acceptance of the offer and formation of a contract for purchase, Respondent Thomas failed to timely obtain the \$ 2,000.00 earnest money for deposit as was specified in the contract. Records obtained during the Commission investigation reflect that Broker Knight inquired of the Respondent Thomas some days later to "...please mail me the Earnest Deposit check to place in escrow." Records submitted by Respondent Thomas reflect that Thomas had informed neither the seller's agent nor her responsible broker, Respondent Carson, that the earnest money specified in the contract had not been timely collected.

## **VI.**

Thomas collected the \$ 2,000.00 earnest money specified in the contract after numerous requests from Knight. Additionally, proof of funds/financing had not been presented to the seller despite repeated requests and the terms of the contract. When Thomas did finally receive the \$ 2,000 earnest money, she caused it to be deposited in the closing attorney's account, instead of depositing said funds into her broker's escrow account, as required by Commission statute, rules and the terms of the contract. Thomas informed none of the parties, nor her broker Respondent Carson, that the earnest money had been wrongly deposited. Closing for the property was set for April 25, 2018. The transaction did not close by the deadline specified in the contract, as the seller opted to cancel. The buyer signed the contract release on April 05, 2018.

## **VII.**

Ultimately, it was learned that Respondents had failed to timely account for the earnest money specified in the contract and had failed to timely deposit the funds in the brokerage escrow account as required. Further, neither Respondent Thomas nor Respondent Carson had properly informed the seller or seller's broker regarding the earnest money.

## VIII.

The above and foregoing described acts and omissions of the Respondents 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, §73-35-21(1)(f) and (n) and Commission Rules 3.1A, and 3.4A, which provide, in relevant parts:

**§73-35-21(1)(f)** Failing, within a reasonable time, to account for or to remit any monies coming into his possession which belong to others... Every responsible broker... shall deposit, within a reasonable period of time, the sum or sums so received in a trust or escrow account in a bank or trust company pending the consummation or termination of the transaction. "Reasonable time" in this context means by the close of business of the next banking day;

**§73-35-21(1)(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 3.4A** The responsible broker is responsible at all times for earnest money deposits. Earnest money accepted by the broker or any licensee for which the broker is responsible and upon acceptance of a mutually agreeable contract is required to deposit the money into a trust account prior to the close of business of the next banking day. The responsible broker is required to promptly account for and remit the full amount of the deposit or earnest money at the consummation or termination of the transaction. A licensee is required to pay over to the responsible broker all deposits and earnest money immediately upon receipt thereof. Earnest money must be returned promptly when the purchaser is rightfully entitled to same allowing reasonable time for clearance of the earnest money check. In the event of uncertainty as to the proper disposition of earnest money, the broker may turn earnest money over to a court of law for disposition. Failure to comply with this regulation shall constitute grounds for revocation or suspension of license.

## **DISCIPLINARY ORDER**

THEREFORE, by agreement, understanding and consent, the Commission ORDERS discipline as follows:

As to James W. Carson, Broker, the Commission orders that his license incur a one (1) month suspension, held in abeyance, and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first thirty (30) days after Respondent Carson signs this order. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Candace Elease Thomas, Sales Agent, the Commission orders that her license incur a one (1) month suspension, held in abeyance, and followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first thirty (30) days after Respondent Thomas signs this order. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same



classes from the same provider as those used by this Respondent in the last renewal period.  
Evidence of completion of these classes is to be provided to this Commission.

SO FOUND AND ORDERED this the 22<sup>nd</sup> day of June, 2018.

**MISSISSIPPI REAL ESTATE COMMISSION**

-- SEAL --

BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

James W. Carson  
James W. Carson, Broker

DATE:

6/28/18

AGREED:

Candace Thomas  
Candace Elease Thomas, Sales Agent

DATE:

6/22/18



**THE STATE OF MISSISSIPPI  
THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 047-1707**

**KAREN SUZANNE MARTIN, BROKER  
PAUL G. CARTER, JR., SALESPERSON**

**RESPONDENTS**

**AGREED 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 Karen Suzanne Martin, Broker, and Paul G. Carter, Jr., Salesperson, and the Commission, was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their right to a full hearing and their right to appeal. The Commission, then, does hereby find and order the following:

I.

Respondent Karen Suzanne Martin, hereinafter “Respondent” or “Martin”, is an adult resident citizen of the state of Mississippi whose last known address of record with the Commission is 2000 Highway 90, Gautier, Mississippi; 39553. Respondent Martin 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers under Mississippi law.

Respondent Martin is the Principal Broker of the Brokerage Firm, “Coldwell Banker Smith Homes” and is the responsible broker for Respondent Paul G. Carter, Jr.

## II.

Respondent Paul G. Carter, Jr., hereinafter “Respondent” or “Carter,” is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 2000 Hwy. 90 Gautier, MS 39553. Respondent Carter 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, he is subject to the provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers and salespersons under Mississippi law.

## III.

The Commission received a sworn complaint from Mary & Roy Shannon, sometimes hereinafter collectively called “sellers” or “Shannon.” Shannon complained to the Commission following a failed transaction for the purchase of the Shannon’s home located at 1611 Glenn Swetman Street in the city of Biloxi, Mississippi. Respondent Carter was the buyer’s agent for the unsuccessful buyer, Sera Luu. The contract for Luu’s attempted purchase had expired without the parties finalizing the transaction. Shannon complained that the property was off the market for a considerable period of time due to the pending transaction. Shannon complained that after the transaction failed, it was first discovered that Respondent Carter had failed to collect and deposit the \$10,000.00 earnest money that was specified in the contract and, for a considerable period of time, had failed to disclose information to all parties with regard to the earnest money, including the fact that the earnest money check tendered by the prospective purchaser had been returned due to insufficient funds in the account on which it was drawn.

Thereafter, the Commission opened its investigation of the matter.

#### IV.

On or about February 13, 2017, the prospective purchaser, the Luu Group, represented by Sera Luu, made an offer through Respondent Carter to purchase the home located at 1611 Glenn Swetman Street in Biloxi for \$784,000.00. The offer was accepted on or about February 14, 2017. Among other terms, the contract provided that \$400,000.00 would be paid in cash at closing with the remainder financed with a new loan and the contract of sale specifically provided that an earnest money check of \$10,000.00 would be deposited into the escrow account of Coldwell Banker Smith Homes, the Brokerage Firm of Respondents Martin and Carter. An additional contract term provided that the buyer would provide proof of qualification for the financing of the purchase within fifteen (15) days of the acceptance of the contract.

#### V.

Upon notification from the seller, Shannon, of acceptance of the Luu offer and formation of a contract for purchase, Respondent Carter failed to obtain the \$10,000.00 earnest money for deposit, as specified in the contract. Records obtained during the Commission investigation reflect that Respondent Carter communicated with the buyer some ten (10) days later, on February 24, 2017 to "...please mail me the Earnest Deposit check to place in escrow." Records submitted by Respondent Carter reflect that on the same day, Luu stated to Carter that she would deliver the earnest money to him since she would be in town the following day, February 25. As of that date, Carter had informed neither the seller, the seller's agent nor his responsible broker, Respondent Martin, that the \$10,000.00 earnest money deposit specified in the contract had not been collected.

## VI.

Carter only collected a check for the \$10,000.00 earnest money specified in the contract on or about March 3, after numerous requests to the buyer, Luu. As of that date, proof of funds/financing had not been presented to the seller; despite their repeated requests and specific requirements under the terms of the contract. When Carter did receive the \$10,000.00 check from Luu, rather than depositing the earnest money into his broker's escrow account as required by Commission statute, rules and the terms of the contract, Carter agreed to hold the check with the understanding that it would later be exchanged for a cashier's check. The check reflected memo language indicating it was to be exchanged by the buyer on "March 6" but this did not occur. When Carter finally submitted the original check for deposit into his broker's escrow account, some three weeks later, on or about March 22, it was returned unpaid due to insufficient funds. Again, Carter informed none of the parties to the contract nor his broker, Respondent Martin, that the earnest money check had been dishonored. Neither Respondent Carter nor Respondent Martin timely informed the other parties that the deposit check had been dishonored.

## VII.

The closing for the property was set for March 3, 2017. On March 28, Respondent Carter finally received a cashier's check from the buyer for \$12,000.00, purportedly for the \$10,000.00 earnest money and an additional \$2,000.00 to be applied toward the purchase price. The cashier's check was made payable to the order of the closing attorney and was not designated for deposit into the escrow account of Coldwell Banker Smith Homes or the Respondent broker Martin. Respondent Carter held the cashier's check and neither informed his broker nor the agent for the seller of the certified funds. The transaction did not close by the March 31 deadline specified in the contract.

## VIII.

Following expiration of the contract, the agent for the seller, Webb, contacted Respondents to continue toward closing the transaction. Webb repeated earlier inquiries as to proof of funds for closing, as the sellers were still willing to close the transaction. On or about April 4, records reflect that Respondent Carter was still holding the certified check payable to the closing attorney in the amount of \$12,000.00. Upon learning this, Respondent Martin directed that the certified check be overnighted to the payee, the closing attorney firm of Page, Mannino, Peresich & McDermott (PMPM). A new contract was written for consideration by the sellers. However, the sellers' agent, Webb, soon confirmed that funds sufficient to close had not been wired to the closing attorney as had been claimed. The sellers declined to enter into the new contract, suspended further negotiations, and soon demanded the \$10,000.00 earnest money, claiming buyer Luu had breached the contract.

## IX.

Ultimately, it was learned that Respondents had failed to timely account for the earnest money specified in the contract and had failed to timely deposit the funds in the brokerage escrow account as required. Further, neither Respondent Carter nor Respondent Martin had informed the other parties regarding the original earnest money check that was dishonored for payment. Long after the transaction had failed, Respondent Martin demanded the closing attorney PMPM return the funds and Respondents requested sellers release any claim to the funds, but this was denied. PMPM subsequently interplead the funds into the Chancery Court of Harrison County; funds that should have been deposited into Respondent Martin's brokerage escrow account within a reasonable time upon formation of the initial contract.

X.

The above and foregoing described acts and omissions of the Respondents 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 & Regulations of the Commission, more specifically, §73-35-21(1)(f) and (n) and Commission Rules 3.1A, 3.4A, and 3.4D which provide, in relevant parts:

**§73-35-21(1)(f)** Failing, within a reasonable time, to account for or to remit any monies coming into his possession which belong to others... Every responsible broker... shall deposit, within a reasonable period of time, the sum or sums so received in a trust or escrow account in a bank or trust company pending the consummation or termination of the transaction. “Reasonable time” in this context means by the close of business of the next banking day;

**§73-35-21(1)(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 3.4A** The responsible broker is responsible at all times for earnest money deposits. Earnest money accepted by the broker or any licensee for which the broker is responsible and upon acceptance of a mutually agreeable contract is required to deposit the money into a trust account prior to the close of business of the next banking day. The responsible broker is required to promptly account for and remit the full amount of the deposit or earnest money at the consummation or termination of the transaction. A licensee is required to pay over to the responsible broker all deposits and earnest money immediately upon receipt thereof. Earnest money must be returned promptly when the purchaser is rightfully entitled to same allowing reasonable time for clearance of the earnest money check. In the event of uncertainty as to the proper disposition of earnest money, the broker may turn earnest money over to a court of law for disposition. Failure to comply with this regulation shall constitute grounds for revocation or suspension of license.

**Rule 3.4D** If a broker, as escrow agent, accepts a check and later finds that such check has not been honored by the bank on which it was drawn, the broker shall immediately notify all parties involved in the transaction.

### **DISCIPLINARY ORDER**

THEREFORE, by agreement and consent, the Commission ORDERS discipline as follows:

As to Karen Suzanne Martin, Broker, the Commission orders that her license incur a one (1) month full suspension, beginning March 1, 2018, and with the next two (2) following months of additional suspension held in abeyance followed by nine (9) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during her first month of suspension. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Paul G. Carter, Jr., Sales Agent, the Commission orders that his license incur six (6) months of full suspension followed by an additional six (6) months of suspension, held in abeyance contingent upon Carter's future compliance with all Mississippi Real Estate statutes and Commission Rules and also contingent upon his completing eight (8) hours of



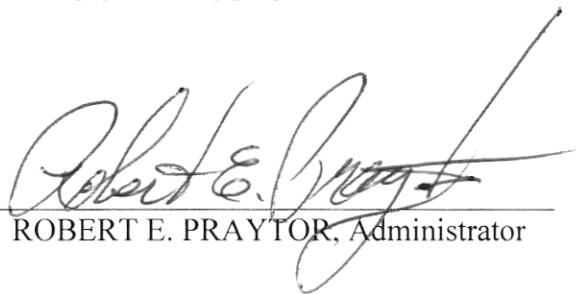
Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract Law and 2 hours of License Law) during his full license suspension period. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, will be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission. Carter's full suspension will start March 1, 2018 and end August 30, 2018 and will be immediately followed by the suspension, held in abeyance, from September 1, 2018 and end March 01, 2018.

SO FOUND AND ORDERED this the 28<sup>th</sup> day of February, 2018.

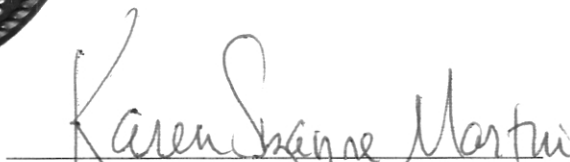
**MISSISSIPPI REAL ESTATE COMMISSION**



BY:

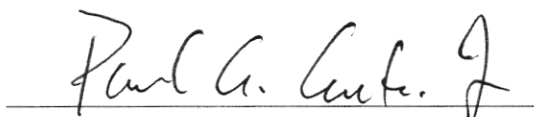
  
ROBERT E. PRAYTOR, Administrator

AGREED:

  
Karen Suzanne Martin, Broker

DATE: 2/28/18

AGREED:

  
Paul G. Carter, Jr., Sales Agent

DATE: 02-28-18

**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**No. 011-1803**

**RICHARD LYNN LEWIS, BROKER  
DIANA LYNN CUPPLES, SALESPERSON, and  
EHRIN NICOLE NEESE, 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. on a formal complaint brought against Respondents Richard Lynn Lewis, Broker, Diana Lynn Cupples, Salesperson, and Ehrin Nicole Neese, Salesperson. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondents. This agreement is for a suspension of each Respondent's license in lieu of further disciplinary proceedings. By entering into this Agreed Order, all three Respondents waive his/her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:

## **I.**

Respondent Richard Lynn Lewis, Broker, sometimes hereinafter "Respondent" or "Lewis" is an adult resident citizen of MS whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, MS 38638. Respondent Lewis is the holder of a real estate broker's license issued by the Commission pursuant to Mississippi Code Ann. §73-35-1, et seq., as amended and, as such, he is subject to the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate brokers under Miss. law. At all relevant times, Respondent Lewis was the responsible broker for salespersons Diana Lynn Cupples and Ehrin Nicole Neese.

## **II.**

Respondent Diana Lynn Cupples, Salesperson, sometimes hereinafter "Respondent" or "Cupples" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Cupples 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 the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law.

## **III.**

Respondent Ehrin Nicole Neese, Salesperson, sometimes hereinafter "Respondent" or "Neese" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Neese 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 the provisions, rules,

regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law

#### IV.

On or about September 25, 2017, the Commission received a sworn complaint from Erik and Michelle Horne, sometimes hereinafter the "Hornes." The Hornes complained that they were the owners of rental property managed by Respondents through Allstar Management, LLC, sometimes hereinafter "Allstar," for whom Respondent Lewis is the responsible broker. Among other complaints, the Hornes complained that they lost a significant amount of rental income, and incurred unnecessary maintenance expenses, because of issues attendant to Respondents' management of the Hornes' property located at 4140 Amherst Drive, Olive Branch, Mississippi.

#### V.

On or about March, 2017, the Hornes were contacted by Respondent Nicole Neese, salesperson, informing them that the tenants in the Amherst Drive property wanted to renew their lease for another twelve (12) month term. These tenants had previously given their notice to vacate the property but now requested a renewal of the lease. The Hornes agreed to the lease renewal for a new twelve month term beginning March, 2017.

#### VI.

On or about July 19, 2017, the Hornes received an email communication from James Jones, an unlicensed employee with Allstar Management, informing them that "the tenants at 4140 Amherst Drive... have given proper 30 day notice. Their move out date will be 8/31/2017." The Hornes complained to Respondents that they were confused by this information, since they had approved the tenants' request for a renewal of the lease.

## VII.

The next day, July 20, Respondent Cupples then informed the Hornes that the tenants had signed the lease extension form but had returned it by cellphone picture to Respondent Nicole Neese. Neese had informed the tenants to resubmit the signed extension, but it was never received. Respondents admitted that the extension had not been documented in the property management system. Thereafter, when the tenants gave notice to vacate the property, Respondents' unlicensed staff recorded the notice as having been properly given. Respondents did not follow up with the tenants to make sure the original signed extension was received or that the extension of the lease was properly documented in the files. In her July 20 correspondence to the Hornes, Respondent Cupples stated that, as far as she was concerned, the tenants had signed the extension/renewal and were therefore bound to the extended lease term. Cupples informed the Hornes she would have "James [Jones] contact [the tenants] to notify them" that they would be in breach of the lease if they vacated the property early. James Jones is an unlicensed employee of Respondents' property management company.

Thereafter, the Hornes communicated with Respondents in efforts to determine the status of the lease matter. The Hornes were informed that the Broker, Respondent Richard "Ricky" Lewis, would be consulted but the Hornes complained that they never heard from Lewis. The tenants did not pay rent for August and the Hornes were informed on August 11, 2017 that the tenants had made a promise to pay.

### VIII.

The Hornes contacted the Respondents again on August 16 to find out if the rent had been paid and to inquire again about the status of the renewal matter as they were concerned that there was not an original executed lease on file. Respondents were notified the next day, August 17, by Chris Napper that suit had been filed in Justice Court against the tenants with a September 5 court date. Napper explained that they would continue "to try our best in collecting the rent and will keep you updated." Chris Napper is also an unlicensed employee of the property management company. The Hornes responded that same day and inquired whether anyone had physically inspected the residence to determine whether the tenants were still occupying the property. Over a week later, on or about August 25, the Hornes were informed by Lisa Stewart, also an unlicensed employee, that the tenants had, in fact, vacated the property and not paid rent. Stewart reminded the Hornes that the matter of the unpaid rent was pending in court. Stewart stated that "[o]verall, the property did not appear to be in bad shape, but will need a good cleaning, carpet cleaning, fresh coat of paint on the walls, and some yard maintenance. "

### IX.

The Hornes complained that they physically inspected the property only five (5) days later and claimed they discovered that the house "WAS in bad shape." The Hornes complained that there were shingles visibly missing from the roof, causing a water leak with visible water stains and mold in the garage, damaged walls, and missing fixtures and drain pipes from the home. The Hornes complained that Respondents' property management firm had agreed to inspect the property every three (3) months while changing out air conditioning filters and that the damage would have been apparent during the last recorded filter change in July, 2017.

## **X.**

The Hornes complained that they asked for a copy of the property management agreement for their property and were given a copy of the agreement that they signed in March, 2015 but which expired in February, 2016. The Hornes were never given nor asked to sign a new management agreement after that time. During the Commission investigation, a copy of the subject management agreement was obtained and it was not signed by Respondent Lewis or an agent of Respondents' property management firm, Allstar Management.

## **XI.**

The above and foregoing acts and omissions of Respondents 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, §73-35-3, §73-35-21(1) and Commission Rules 3.1A, 3.1B, and 4.2G(5), 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 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.

§73-35-3(1) The term "real estate broker"... shall include all persons... who... lease, manage, any real estate, or the improvements thereon,... or who negotiate or attempt to negotiate such activity...

§73-35-3(4) The term "real estate salesperson" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in subsection (1) of this section, for compensation or otherwise.

§73-35-21 (1) The commission may, upon its own motion and shall upon the verified complaint in writing of any person, hold a hearing for... the suspension or revocation of a license... or for such other action as the commission deems appropriate. The commission shall have full power 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:

(a) Making any substantial misrepresentation in connection with a real estate transaction.

(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 3.1 A It shall be the duty of the responsible broker to instruct the licensees 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 3.1 B 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 action 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.

Rule 4.2 G "Fiduciary duties" 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**

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

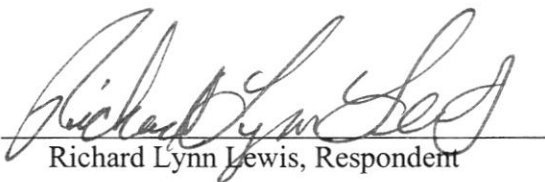
As to each Respondent individually, the Commission orders that his/her license incur a 6 (six) month suspension period, with one month to serve and five (5) of those months of suspension held in abeyance, pending successful completion of probation. The 1 month of suspension will be immediately followed by six (6) months of probation that will be contingent upon both future compliance by each Respondent with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon each Respondent completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during that 1 month of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him/her for license renewal and will not be the same classes from the same provider as those used by these Respondents in their individual last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Lewis's suspension will start Dec. 01, 2018 and will be immediately followed by the six (6) month probation period. Respondent Cupples and Neese's suspension periods will immediately follow, in whichever order they choose, to be followed by their respective 6 month probation period.

SO FOUND AND ORDERED this the 15<sup>th</sup> day of NOVEMBER, 2018.



MISSISSIPPI REAL ESTATE COMMISSION

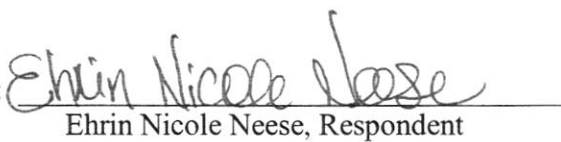
  
ROBERT E. PRAYTOR, Administrator

Agreed:   
Richard Lynn Lewis, Respondent

Date: 10/8/18

Agreed:   
Diana Lynn Cupples, Respondent

Date: 11/8/18

Agreed:   
Ehrin Nicole Neese, Respondent

Date: 11/12/18

**THE STATE OF MISSISSIPPI  
THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 035-1705**

**TASHIA D. MCGINN, BROKER  
RICHARD T. SANCHEZ, BROKER ASSOCIATE  
KATHERINE A. DECOITO, SALESPERSON  
RESPONDENTS**

**AGREED 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 Tashia D. McGinn, Principal Broker, Katherine A. DeCoito, Salesperson, and Richard T. Sanchez, Broker Associate, and the Commission, was advised that there has been an agreement reached among the parties resolving the issues brought forward in this complaint. By entering into this Agreed Order, the Respondents waive their rights to a full hearing and their right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent Tashia D. McGinn, hereinafter “Respondent” or “McGinn”, is an adult resident citizen of the state of Mississippi whose last known address of record with the Commission is 2598 Pass Rd., Ste. B, Biloxi, MS 39531. Respondent McGinn 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers under Mississippi law.

Respondent McGinn is the Principal Broker of the Brokerage Firm, "Exit Prestige Luxury Realty" and is the responsible broker for Respondent agents Katherine A. DeCoito and Richard T. Sanchez.

## II.

Respondent Richard T. Sanchez, hereinafter "Respondent" or "Sanchez," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 2598 Pass Rd., Ste. B, Biloxi, MS 39531. Respondent Sanchez 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 the provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers and salespersons under Mississippi law.

Respondent Katherine A. DeCoito, hereinafter "Respondent" or "DeCoito," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 2598 Pass Rd., Ste. B, Biloxi, MS 39531. Respondent DeCoito 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 the provisions, rules, regulations and statutes governing the sale and transfer of real estate and the licensing of real estate brokers and salespersons under Mississippi law.

## III.

The Commission received information that Respondent McGinn was operating an unlicensed property management enterprise with unlicensed individuals engaging in licensable activity and, further, that various real estate transaction forms were not properly completed. Thereafter, the Commission opened its investigation of the matter.

#### IV.

Respondent McGinn's response acknowledged that the property management enterprise was not separately licensed, and, further, that the individuals operating same were indeed not licensed but may be engaging in licensable activity. Upon viewing Respondent McGinn's company internet website, it was noted that unlicensed individuals were listed as "agents" for handling property management activities.

#### V.

Respondent DeCoito was engaged as a buyer's agent for a property at 1664 East Beach Blvd. in Gulfport, MS. The listing agent was Roxy Condrey of Rain Residential. This sales transaction closed on June 14, 2017. A review of the file documents revealed the property condition disclosure form was uncompleted, an act of non-compliance with M. C. A. §§89-1-501 et seq.

#### VI.

Respondent Sanchez was engaged as a buyer's agent for a property at 132 Gary Street in Gulfport, MS. The listing agent was Jay R. McKnight of Cameron Bell Properties. This sales transaction closed on June 02, 2017. A review of the file documents revealed a property condition disclosure form uncompleted, an act of non-compliance with M. C. A. §§89-1-501 et seq.

## VII.

Additionally, investigation of files revealed that some of the standard MAR and MREC forms had been improperly altered by the addition of McGinn's company logo, a violation of MREC advertising Rule 3.3 and at least one WWREB form was incorrectly completed.

## VIII.

The above and foregoing described acts and omissions of the Respondents constitute violations of the Miss. Real Estate Brokers License Act of 1954, as amended, §§73-35-1, *et seq.*, Miss. Code Ann., and the Rules & Regulations of the Commission; more specifically, §73-35-21(1)(n) and (1)(d), Commission Rules 3.1A, 3.3A, and 4.2(G)(5) which provide, in relevant parts:

**§73-35-21(1)(n)** Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates...incompetency... or improper dealing...

**§73-35-21(1)(d)** any misleading or untruthful advertising;

**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 3.3A.** The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as "substantial misrepresentation" and cause for refusal, suspension, or revocation of the license.

**Rule 4.2** (G) (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**

THEREFORE, by agreement and consent, the Commission ORDERS discipline as follows:

As to Tashia D. McGinn, Broker, the Commission orders that her license incur a one (1) month full suspension, beginning the date she signs this order and with the next two (2) following months of additional suspension held in abeyance followed by nine (9) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during her first month of suspension. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

As to Katherine A. DeCoito, Salesperson, and Richard T. Sanchez, Broker Associate,  
the Commission orders that they receive an official Letter of Reprimand each.

SO FOUND AND ORDERED this the 9<sup>th</sup> day of April, 2018.

**MISSISSIPPI REAL ESTATE COMMISSION**



BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

Tashia D. McGinn  
Tashia D. McGinn, Broker

DATE: 3/30/18

AGREED:

Richard T. Sanchez  
Richard T. Sanchez, Broker Associate

DATE: 4/02/18

AGREED:

Katherine A DeCoito  
Katherine A DeCoito, Sales Agent

DATE: 4/2/18



**THE STATE OF MISSISSIPPI  
THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 071-1710**

**KEVIN W. GLIDEWELL, BROKER**

**RESPONDENT**

**AGREED 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 Kevin Glidewell, Broker, and the Commission was advised that there has been an agreement reached among the parties resolving the issues brought forward in the complaint. By entering into this Agreed Order, the Respondent waives his right to a full hearing and his right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent, Kevin W. Glidewell (sometimes hereinafter called “Glidewell” or “Respondent”), is an adult resident citizen of Mississippi whose last known address of record with the Commission is 10723 Highway 4 West, Senatobia, MS 38668. Respondent Glidewell is the holder of a Broker license issued by the Commission pursuant to Miss. Code Ann. §§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 administrative rules of the Miss. Real Estate Commission.

**II.**

On August 12, 2017, Respondent Glidewell, who at that time was a broker on inactive license status and with Pioneer Auction and Realty, conducted an auction of 251 acres of land,

more or less, in Panola County, MS. Respondent's license was inactive then due to a deficiency in his continuing education requirements. Notice of said deficiency and subsequent license status change was issued to the Respondent by the Commission on April 25, 2017. On October 25, 2017, the Commission received Respondent's application to reactivate his broker license.

### **III.**

Cannon Kirk was the successful bidder for this parcel of land. He submitted to Respondent the required 10% earnest money, a sum of \$55,220.00. This auction was being held at the instance of a Mississippi Chancery Court proceeding. Kirk requested his earnest money be returned, was initially refused by Respondent because the sale was not offered for approval by the Chancery Court, and Kirk subsequently engaged the services of an attorney to regain his earnest money. Kirk received his earnest money and reported this matter to the Commission. Thereafter, the Commission opened its investigation of this matter.

### **IV.**

The Commission finds that Respondent Glidewell knowingly and willfully performed at least one auction of real property during a time when his real estate license was inactive. Said conduct warrants sanctions being imposed against Glidewell.

### **V.**

The above and foregoing described acts of the Respondent Glidewell constitute violations of Miss. Code Ann. §73-35-1 and 73-35-21 which state, in relevant part:

#### **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.

**Miss. Code Ann. § 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 full power to refuse a license for cause or to revoke or suspend a license where it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(a) Making any substantial misrepresentation in connection with a real estate transaction;

(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing. However, simple contact and/or communication with any mortgage broker or lender by a real estate licensee about any professional, including, but not limited to, an appraiser, home inspector, contractor, and/or attorney regarding a listing and/or a prospective or pending contract for the lease, sale and/or purchase of real estate shall not constitute conduct in violation of this section.

## DISCIPLINARY ORDER

THEREFORE, by agreement, understanding and consent, the Commission ORDERS discipline as follows:

As to Kevin Glidewell, Broker, the Commission orders that his license incur a one (1) month suspension and be followed by eleven (11) months of probation; contingent upon both future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during that first month of suspension. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of him for license renewal and will not be the same classes from the same provider as those used by this Respondent in his last renewal period. Evidence of completion of these classes is to be provided to this Commission. Glidewell's full suspension will start June 1, 2018 and end June 30, 2018 and will be immediately followed by the probation period.

SO FOUND AND ORDERED this the 1<sup>st</sup> day of June, 2018.



**MISSISSIPPI REAL ESTATE COMMISSION**

BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

DATE: 6/1/2018

Kevin Glidewell  
Kevin Glidewell, Broker

**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 036-1807**

**GEORGE "TREY" E. GUERIERI III, BROKER**

**RESPONDENT**

**ORDER**

Comes now the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to authority of Miss. Code Ann. §73-35-1, et seq., as amended, and issues this Order as to George "Trey" E. Guerieri III, Broker, as follows:

**I.**

Respondent George "Trey" E. Guerieri III, sometimes hereinafter called "Respondent Guerieri" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 127 Vinings Dr., Madison, MS 39110. Respondent Guerieri 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Mississippi law. Respondent is the principal broker of Terramark Corporation.

## **II.**

An investigation began over a written complaint regarding a rental dispute. Preliminary investigation revealed that Respondent Guerieri was operating a property management enterprise without proper company real estate licenses and, further, that a real estate transaction form was not properly completed. Thereafter, the Commission opened its full investigation of the matter.

## **III.**

Respondent Guerieri's response showed that during the time of the property management complaint in question, Respondent Guerieri had a company license issued by the Commission to "Terramark Corporation". Respondent Guerieri has instead represented the company name on different documents as "Terramark Real Estate" and "Terramark Management LLC", and "Terramark Management", none of which entities was separately licensed as a company with MREC. Records show that the Respondent's real estate activities have been interchangeably represented as "Terramark LLC", "Terramark", "Terramark Real Estate", "Terramark Management" and "Terramark Corporation".

## **IV.**

Additionally, investigation of company files revealed that one WWREB form was incorrectly completed by Salesperson Jenny Price, as it was marked that the corporation was representing the buyer/tenant instead of marking the form to show the seller/landlord as client. Additionally, this was not noticed or corrected by the Respondent Broker, Guerieri.

## V.

The above 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, §73-35-6, §73-35-21(a), (c), (d) and (n) and Commission Rules 3.1A, and 4.2G(5) which provide, in relevant parts:

§73-35-6. Licenses for business entities: A corporation, partnership, company or association shall be granted a license when individual broker's licenses have been issued to every member, owner, partner or officer of such partnership, company, association or corporation who actively participates in its brokerage business and when any required fee is paid.

§73-35-21(1)(a) making any substantial misrepresentation in connection with a real estate transaction;

§73-35-21(1)(c) pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;

§73-35-21(1)(d) any misleading or untruthful advertising;

§73-35-21(1)(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 3.1 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 4.2 (G) (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.

**VI.**

Said actions by the Respondent, and the named salesperson, warrant discipline from the Commission. However, these matters are addressed and adjudicated by an Agreed Order between the Commission and the Respondent Guerieri in a separate Complaint action numbered 037-1807. Salesperson Jenny Price is to be issued a letter of reprimand for her conduct regarding the agency form (WWREB) as described herein.

So Ordered this the 6<sup>th</sup> day of NOVEMBER, 2018.

**MISSISSIPPI REAL ESTATE COMMISSION**

  
BY: **ROBERT E. PRAYTOR, Administrator**

Acknowledged: 

**George "Trey" E. Guerieri III, Broker**

DATE: 11/2/18





**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 037-1807**

**GEORGE "TREY" E. GUERIERI III, BROKER**

**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. on a formal complaint brought against Respondent George "Trey" E. Guerieri III, Broker. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondent, George "Trey" E. Guerieri III, Broker. This agreement is for the suspension of Respondent Guerieri's license in lieu of further disciplinary proceedings. By entering into this Agreed Order, Respondent George "Trey" E. Guerieri III waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on this matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:

## I.

Respondent George “Trey” E. Guerieri III, sometimes hereinafter called “Respondent Guerieri” is an adult resident citizen of Mississippi whose last known address of record with the Commission is 127 Vinings Dr., Madison, MS 39110. Respondent Guerieri 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 provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Miss. Law.

## II.

The investigation began over a filed complaint regarding a property management dispute between a property owner and Terramark Management, LLC. Preliminary investigation revealed that Respondent Guerieri was operating a property management enterprise, interchangeably referred to by the Respondent as “Terramark Management”, “Terramark Real Estate”, and “Terramark Management, LLC”. These 3 company entities were without a company real estate license. Thereafter, the Commission opened its full investigation of the matter.

## III.

Respondent Guerieri’s response showed that during the time of the property management complaint in question, Respondent Guerieri had a company license issued by the Commission to “Terramark Corporation”. Respondent Guerieri has instead represented the company name on different documents as “Terramark Real Estate”, “Terramark Management LLC”, and “Terramark Management”, none of which entities was licensed as a company with MREC.

## VI.

The Respondent's property management entity, under the unlicensed name Terramark Management LLC, purportedly acquired property management authority, duty and responsibility of the property of the Complainant, along with about 60 other properties, from Superior Real Estate Management, LLC (hereinafter referred to as "Superior"), in the Spring of 2016 by way of a document titled "Letter Agreement" (hereinafter called "Letter Agreement"). An addendum to this Letter Agreement was an "Assignment and Assumption of Contracts".

## V.

Additional investigation revealed that an unlicensed assistant conducted licensable activity. Further, her activities were subpar such that the Respondent terminated her employment and began corrective measures. However, proper supervision by the Respondent during this assistant's employment would have prevented much of the owner's complaints. Further, No WWREB forms had initially been provided for any property owners that Respondent accepted from Superior.

## VI.

The initial property management agreement between the Complainant and Superior expired in October, 2013. It appears that this management agreement was re-newed and set to expire in October, 2015. There was a provision in this initial management agreement between the owners and Superior that allowed for automatic rollover of the management agreement, *under the same terms and conditions*, absent any written notice from either party to the contrary. Neither the property management agreement between Superior and the property owners or the subsequent Letter Agreement with Assignment and Assumption between Superior and Terramark Management, LLC contains any provision regarding notice to or acceptance by any of the property owners regarding the transfer of these property management agreements to Terramark. However,

there is a provision in the Letter Agreement in favor of Superior, should any of the property owners have chosen not to re-new with Terramark. Importantly, Respondent has not provided any of his company property management agreements that would have supplanted Superior's agreements.

## VII.

The filed complaint alleges that Terramark breached some provisions of the property management agreement that Terramark acquired *in toto* from Superior. Terramark committed repairs allegedly without the prior approval of the property owner, failed to properly account for repair expenses by vendors, and charged for repairs made by a repair company whose ownership and control by Terramark was not revealed until later questioned by the owner/Complainant.

## VIII.

The above and foregoing described acts and omissions of the Respondent constitutes 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, M.C.A. §§ 73-35-6, 73-35-21(1)(a), (c), (d), (f) and (n), and Miss. Real Estate Commission Rules 3.1A, 3.3, 4.2 G(5) & G(6), and 4.3(b) which provide, in relevant parts:

**§73-35-6. Licenses for business entities** A corporation, partnership, company or association shall be granted a license when individual broker's licenses have been issued to every member, owner, partner or officer of such partnership, company, association or corporation who actively participates in its brokerage business and when any required fee is paid.

**§73-35-21(1)(a)** Making any substantial misrepresentation in connection with a real estate transaction;

**§73-35-21(1)(c)** Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;

§73-35-21(1)(d) any misleading or untruthful advertising;

§73-35-21(1)(f) Failing, within a reasonable time, to account for or to remit any monies coming into his possession which belong to others, .....

§73-35-21(1)(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 3.1 A. General Rules**

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**

A. "Advertising" means the use of any oral, written, visual, *printed or electronically generated* advertisement by a real estate licensee or other person on behalf of a real estate licensee.

"Advertisement" means any oral, written, visual, printed or electronic media advertisement *and encompasses any correspondence, mailing, newsletter, brochure, business card, for sale or for lease signage or sign rider, promotional items, automobile signage, telephone directory listing, radio and television broadcasts, telephone solicitation and electronic media to include e-mails, text messaging, public blogs, social media-networking websites, and/or internet displays.*

B. A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker's name to indicate the occupation in which engaged, for example, "realty", "real estate" or "property management". If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.

All advertising must be under the direct supervision and in the name of the Principal Broker or in the name of the real estate Brokerage Firm and must prominently display the name of the Principal Broker or the name of the Brokerage Firm in such a manner that it is conspicuous, discernible and easily identifiable by a member of the public.

Principal Brokers are required to verify and determine that their name or the name of the Brokerage Firm is prominently displayed on all advertising and that the name of any real

estate licensee or any approved real estate Team or Group is situated near the name of the Brokerage Firm. The Broker or the Brokerage Firm must be identified by using the same size or larger print as that of a Licensee or a Team in all advertising. All advertising must include the telephone number of the Principal Broker or the Brokerage Firm.

#### **Rule 4.1 Purpose**

Consumers shall be fully informed of the agency relationships in real estate transactions identified in Section 73-35-3. *This rule places specific requirements on Brokers to disclose their agency relationship.* This does not abrogate the laws of agency as recognized under common law and compliance with the prescribed disclosures will not always guarantee that a Broker has fulfilled all of his responsibilities under the common law of agency. *Compliance will be necessary in order to protect licensees from impositions of sanctions against their license by the Mississippi Real Estate Commission.* Special situations, where unusual facts exist or where one or more parties involved are especially vulnerable, could require additional disclosures not contemplated by this rule. In such cases, Brokers should seek legal advice prior to entering into an agency relationship.

#### **Rule 4.2**

(G)(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.

(G)(6) 'Full accounting' - the agent must provide a full accounting of any money or goods coming into the agent's possession which belong to the principal or other parties.

#### **Rule 4.3 Disclosure Requirements**

B. In a single agency, a real estate broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form.

### **DISCIPLINARY ORDER**

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

The Commission hereby orders that George "Trey" Guerieri, III, Principal Broker's license incur a three (3) month suspension period and be immediately followed by nine (9) months of probation; the probation being contingent upon both his future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during those 3 months of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him for license renewal and will not be the same classes from the same provider as those used by this Respondent in his last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Guerieri's full suspension will start December 01, 2018 and to be immediately followed by the nine (9) month probation period.

This the 6<sup>th</sup> day of NOVEMBER, 2018.



### **MISSISSIPPI REAL ESTATE COMMISSION**

  
BY: **ROBERT E. PRAYTOR, Administrator**

AGREED: 

**George "Trey" E. Guerieri III, Broker**

DATE: 11/2/18

**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 007-1802**

**LASHAUNDRA HIGGENBOTTOM, Salesperson**

**RESPONDENT**

**AGREED 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 Lashaundra Higgenbottom, Salesperson, and the Commission was advised that there has been an agreement reached among the parties resolving the issues brought forward in this case. By entering into this Agreed Order, the Respondent waives her right to a full hearing and her right to appeal. The Commission, then, does hereby find and order the following:

**I.**

Respondent, Lashaundra Higgenbottom (sometimes hereinafter called “Higgenbottom” or “Respondent”), is an adult resident citizen of Mississippi whose last known address of record with the Commission is 2601 Thomas Street, Tunica, MS 38676. Respondent Higgenbottom is the holder of a resident salesperson license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, and, as such, she is subject to the provisions, rules, regulations and statutes governing real estate brokers under Mississippi law and the administrative rules of the Mississippi Real Estate Commission.



## **II.**

In September of 2017, Respondent Higgenbottom, along with her fiancé, submitted a contractual offer, with an earnest money payment, to Broker Haley Carlson to buy a home in Southaven, MS. That offer contained no contingency but did include a lender's financing pre-approval letter that stated the pre-approval was contingent upon the prior sale of Respondent's fiancé's home in Tunica, MS. No contract language referred to the lender's pre-approval letter.

## **III.**

Initially, Respondent Higgenbottom did not reveal to Broker Carlson that the Respondent was a buyer, leading Broker Carlson to believe that the Respondent was an agent for a buyer. After that omission was resolved, Carlson reiterated to the Respondent that the sale contract had not been made contingent upon the prior selling of the fiancé's home. Two counter-offers were subsequently made before the seller accepted an offer from the Respondent, and her fiancé. At that time, no modification or addendum had been made to the sales contract to include any contingency regarding the prior sale of the Respondent's fiancé's home.

## **IV.**

By November of 2017, the Respondent contacted Broker Carlson about conducting a walk-through of the Southaven, MS home but stated to Broker Carlson that the fiancé's home had not yet sold. Broker Carlson reminded the Respondent that the prior sale of the fiancé's home was not a contingency to the Southaven contract. Higgenbottom, apparently believing the inclusion of the lender's letter with the sales contract created a contingency, was advised by Broker Carlson to seek an extension of the sale deadline. Instead, the Respondent sent to Broker Carlson a proposed addendum to the sale contract that included, among other things, a contingency regarding sale of the other home.

## **V.**

Broker Carlson replied to the addendum effort by telling the Respondent that an extension of the sale deadline was still needed. Although the Respondent replied in the affirmative, nothing more transpired in this matter until Dec. 27, 2017 when Broker Carlson received a request from the Respondent for return of the Respondent's earnest money. Broker Carlson instead interplead those funds into the Justice Court of Desoto County, MS.

## **VI.**

Further investigation revealed that the Respondent did not make her principal Broker, Rosemary Chambliss, aware of this transaction until the Respondent needed assistance in acquiring an addendum form. Both brokers later spoke of this matter, including the fact that no deadline extension was forwarded. After this purchase deal failed, Broker Chambliss returned the Respondent's license to the Commission.

## **VII.**

Upon receipt and review of the Respondent's response and the results of the investigation, it was revealed that Higgenbottom had contracted to purchase a home in Southaven, MS without revealing to the Seller's broker that she was an agent, did not competently complete a sales contract to include a material contingency, and did not disclose to her principal broker that she had engaged in this transaction. Said conduct warrants sanctions being imposed against the Respondent, Lashaundra Higgenbottom.

### VIII.

The above and foregoing described acts of the Respondent, Lashaundra Higgenbottom constitute a violation of M.C.A. § 73-35-21 and MREC 3.1 F, 3.2 E, 4.3 B, 4.3 G which state, in relevant part:

#### **§ 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 full power to refuse a license for cause or to revoke or suspend a license where it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

- (a) Making any substantial misrepresentation in connection with a real estate transaction;
- (b) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;
- (c) Acting for more than one (1) party in a transaction or receiving compensation from more than one (1) party in a transaction, or both, without the knowledge of all parties for whom he acts;

(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing. However, simple contact and/or communication with any mortgage broker or lender by a real estate licensee about any professional, including, but not limited to, an appraiser, home inspector, contractor, and/or attorney regarding a listing and/or a prospective or pending contract for the lease, sale and/or purchase of real estate shall not constitute conduct in violation of this section.

### **Rule 3.1 General Rules**

F. 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.

### **Rule 3.2 Documents**

E. Every real estate contract must reflect whom the broker represents by a statement over the signatures of the parties to the contract.

### **Rule 4.3 Disclosure Requirements**

B. In a single agency, a real estate broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form.

G. The terms of the agency relationship shall be ratified on all contracts pertaining to real estate transactions.

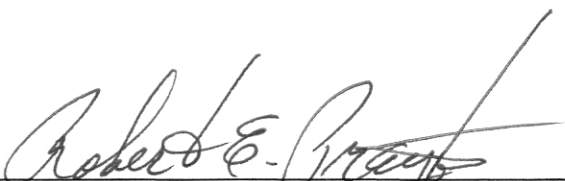
### DISCIPLINARY ORDER

THEREFORE, by agreement, understanding and consent, the Commission ORDERS discipline as follows:

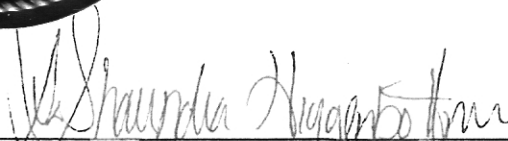
Lashaundra Higgenbottom, Sales Agent, the Commission orders that her license incur a one (1) month suspension, held in abeyance, and followed by eleven (11) months of probation; contingent upon both her future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education ( 4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during the first thirty (30) days after Respondent Higgenbottom signs this order. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission.

THIS the 3<sup>RD</sup> day of July, 2018.



  
ROBERT E. PRAYTOR, Administrator  
MISS. REAL ESTATE COMMISSION

Agreed:

  
LASHAUNDRA HIGGENBOTTOM

, Respondent

7/3/18

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 040-1705

MARGIE ANN MCFARLAND, BROKER  
MELISSA HOLDER, 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 Margie Ann McFarland, Broker, and Melissa Holder, Salesperson. Prior to the hearing before the Commission, the parties announced their agreement as to the disciplinary action for the parties. By entering into this Agreed Order, Respondents waive their right to a hearing with full due process and the right to appeal any adverse decision resulting 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 Margie Ann McFarland, sometimes hereinafter "Respondent" or "McFarland," is an adult resident citizen of Mississippi, whose last known address of

record with the Commission is 28 29<sup>th</sup> Street, Gulfport, Mississippi 39507. Respondent McFarland 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 McFarland was the responsible broker for Respondent Melissa Holder.

## II.

Respondent Melissa Holder, sometimes hereinafter "Respondent" or "Holder," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 2436 Pass Road, Suite B, Biloxi, Mississippi 39531. Respondent Holder 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.

The Commission received a sworn complaint from Angela Runnels, sometimes hereinafter "Runnels." Runnels' complaint reflected that Respondent Holder had been the listing agent for a home Runnels sold located at 115 Woodglen Dr., Gulfport, Mississippi 39507.

#### IV.

Runnels complained that Holder had, among other complaints, failed to communicate properly with Runnels during the representation, made errors in listing and other documents, failed to timely provide documents/information, failed to follow Runnels' instructions, divulged purported financial information regarding a potential buyer Holder also represented, such that Runnels was concerned about her own private information, and made misleading advertising/representations to the public and to Runnels.

#### V.

Runnels complained that Holder had forged or otherwise placed Runnels' initials on a listing agreement without permission. The initials purportedly approved a change in the dates for the term of the listing agreement from October 1, 2016 to September 22, 2016. During the Commission investigation, Holder responded to the allegation and denied placing Runnels' initials on the document. Holder admittedly did not give Runnels a copy of the document at the time of signing but claimed to have made copies and later dropped them off in Runnels' mailbox.

#### VI.

Another complaint concerned Holder's alleged misrepresentations concerning an open house for Runnels' property. Runnels complained that Holder had listed the home on Zillow and Trulia, two internet marketing websites for real estate. Holder caused the advertisements on one or both of the two sites to reflect that there would be an open house



for Runnels' property on October 10, 2016. Runnels was out of town on business that day and later inquired of Holder "how the open house went" while she was away. Holder replied that there had not actually been an open house and that Holder had only made that advertisement in order to "get [Runnels'] listing at the top of Zillow & Trulia." During the Commission investigation, Holder responded that the Zillow/Trulia listing was a "mistake" but Holder did not deny that she had caused the advertisement of an open house with no intention of actually holding the open house. Holder responded she had not received any calls or inquiries about the fake open house other than the inquiry from Ms. Runnels herself. Holder would have no knowledge whether an interested person or potential buyer had shown up for the open house as she admittedly was not present at Runnels' house that day.

## VII.

Later, Runnels demanded Holder hold an actual open house. Runnels claimed that Holder was reluctant because of the effort and expense involved, but ultimately agreed. Holder informed Runnels after the open house that it had been very successful. Holder informed Runnels that it was the "biggest turnout we four realtors have ever seen at an open house" and that most, but not all attendees, were realtors. Holder also represented that several attendees expressed specific interest in some of Runnels' pieces of furniture which Runnels was also interested in selling. Runnels complained she believed that Holder had obtained contact information for the attendees. But, when Runnels asked that they be contacted regarding the lowering of the asking price, Holder was unable or did not supply

the contact information for any of the attendees (who were not themselves real estate agents), despite describing the open house to Holder as the “biggest turnout” ever. During the Commission investigation, Holder responded that contact information was not necessary since “realtors were the only persons” completing contact sheets.

## VIII.

During Holder’s representation of Runnels, Runnels held a yard sale and personally showed her home to a few interested persons who had attended the sale. Runnels claimed that she provided the name of her agent Holder to the people who viewed the house with her that day. When Runnels provided Holder’s name to one particular couple who showed interest in the house that day, the couple exclaimed that they indeed knew Holder as she had been working with the couple to find them a house. Runnels was concerned that Holder had not already shown the house to this interested couple and asked Holder about the couple. Holder replied with disparaging comments about the prospective buyer, whom she represented, including that she believed he was a “flighty... flaky butterfly” and questioned whether he was truthful regarding his available finances. Runnels was concerned whether she herself could trust Holder if Holder would make such comments about another of her clients.

## IX.

On or about January 22, 2017, an offer was received for Runnels’ property (“first offer”). Holder advised that a response to the offer was due by 5p on the following day, January 23. Runnels asked questions about the first offer but Holder did not transmit the

written offer until later in the evening. Before the first offer was sent to Runnels, Holder reported “we are in a multiple offer situation.” Runnels inquired of the other “offers” and Holder responded “[I don’t know] yet...[Hasn’t] come in.”

X.

Upon review of the first offer, Runnels took time to respond in writing and transmitted same to Holder the next morning, January 23. By that afternoon, Runnels had still not been able to view the second offer and asked that it be resent. Holder then advised she had spoken with yet another buyer’s agent and expected a third offer. Holder advised that she would wait and send Runnels all of the offers together once they were all received. By the next afternoon, January 24, the third offer had still not been received. Runnels instructed Holder around 1:50p that afternoon to accept the second offer. Despite the instructions from her client, Holder responded they should wait on the third offer which was still not received before the deadline to respond to the second offer. After several requests for updates on any response to her instructions, Holder finally responded at 5:00p that she had transmitted Runnels’ acceptance of the second offer. Holder had a duty to promptly obey Runnels’ lawful instructions regarding the negotiations for the sale of Runnels’ property without delay or objection.

## CONCLUSIONS OF LAW

### XI.

The above and foregoing described acts and omissions of the Respondents 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, §73-35-21(1)(n) and Commission Rules 3.1A, 3.2A and 4.2G(2) which provide, in relevant parts:

**§73-35-21(1)(n)** Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates...incompetency or untrustworthiness, or dishonest... 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 3.2A** A real estate licensee shall **immediately (at the time of signing)** deliver a true and correct copy of any instrument to any party or parties executing same.

**Rule 4.2G(2)** Obedience- the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

## DISCIPLINARY ORDER

With respect to Margie Ann McFarland, Broker:

1. Respondent McFarland will be issued a formal Letter of Reprimand which will be placed in her official file held by the Commission.

With respect to Melissa Holder, Salesperson:

1. The license of Respondent Holder will be suspended for one (1) month but the suspension will be held in abeyance and Respondent Holder will be permitted to practice real estate in the State of Mississippi insofar as she complies with the laws and regulations of the State of Mississippi and;
2. Following the period of suspension held in abeyance, the license of Respondent Holder will be placed on probation for eleven (11) months; and
3. Prior to the expiration of Respondent Holder's suspension held in abeyance, Respondent Holder 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 prior to taking and administered by a Mississippi approved CE provider in a classroom setting. The mandatory continuing education shall be in addition to any continuing education previously taken and any required for renewal of Respondent Holder's license and shall not be the same continuing education course from the same provider previously completed for the renewal of her license during the last two (2) renewal periods. Respondent Holder shall furnish the Commission written evidence of satisfactory completion of the courses.

This Order shall be effective on the date the Order is signed by the Commission.

This Order shall be signed and dated by Respondents McFarland and Holder and returned to the Commission within ten (10) working days or shall be withdrawn.

This the 1<sup>st</sup> day of MAY, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY:   
ROBERT E. PRAYTOR, Administrator

AGREED:

  
MARGIE ANN MCFARLAND DATE

  
MELISSA HOLDER DATE



**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 011-1701**

**PHILIP LANDERS, BROKER AND  
TERRY MARTIN, SALESPERSON**

**RESPONDENTS**

**CONSOLIDATED WITH**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 044-1706**

**PHILIP LANDERS, BROKER AND  
SUZANNE PAIGE MCDOWELL, SALESPERSON**

**RESPONDENTS**

**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. The Commission conducted a hearing on the formal complaints brought against Philip (“Phil”) Landers, Broker (sometimes hereinafter “Respondent” or “Landers”), and Salespersons Terry Martin and Suzanne Paige McDowell (sometimes hereinafter “Martin” or “McDowell,” respectively) in the matters consolidated for hearing as styled above, at its offices in Jackson, Hinds County, Mississippi, on June 12, 2018, beginning at 10:00 a.m.<sup>1</sup> At the hearing, the Respondent,

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<sup>1</sup> Prior to hearing, both Salespersons Martin and McDowell independently announced their respective voluntary agreements with the Commission to waive their right to a hearing before the Commission on allegations against them individually, and for agreed discipline in their respective cases, and which agreed disciplinary terms are memorialized in separate written Agreed Orders. Therefore, the Commission proceeded to hearing only against Respondent Phil Landers.

Phil Landers, Broker, was present and represented by counsel. The Commission recognized its quorum and opened the hearing. The hearing was conducted with witnesses being sworn, documentary evidence being admitted as exhibits, the right to cross examination of witnesses, statements from counsel and the verbatim transcript of the hearing being taken by an official court reporter. The Commission makes its Findings of Fact, Conclusions of Law and issues its Disciplinary Order as set forth hereinafter based on evidence introduced at the Commission hearing that was clear and convincing.

#### FINDINGS OF FACT

##### I.

Respondent Phil Landers is an adult resident of Mississippi, whose last known address of record with the Commission is 132 Riverview Dr., Suite A, Flowood, Mississippi 39232. Respondent Landers is the holder of a real estate broker's license issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), 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. Respondent Landers is the responsible broker for Salespersons McDowell and Martin.

##### II.

#### Martin matter

On or about January 20, 2017, the Commission received a sworn statement of complaint from Leslie LeDoux. LeDoux complained that she represented Steve Rimmer Construction, Inc. (sometimes hereinafter "Rimmer Construction") in a transaction for the sale of one of Rimmer Construction's properties located at 232 Falls Crossing, Madison, Mississippi 39110, which transaction did not close. The prospective purchaser was Donna Strachn (sometimes hereinafter



“Strachn”) who was represented by Terry Martin, Salesperson, whose broker was Phillip Landers with Keller Williams Realty.

### III.

LeDoux complained that the parties had entered into a contract for the purchase of the Falls Crossing property and Strachn tendered \$1000.00 in earnest money that was deposited with Keller Williams. On or about December 20, 2016, LeDoux received a call from Terry Martin who explained her buyer client Strachn was withdrawing from the contract because the sale of her current home in the Reunion subdivision had fallen through. LeDoux informed Martin that there was no contingency in the contract regarding the sale of Strachn’s own home and, the buyer having breached the contract, the earnest money would be forfeited to LeDoux’s seller client Rimmer Construction. Terry Martin was listing agent for Strachn’s home in Reunion and acted in the capacity of dual agent in the transaction for Strachn’s Reunion home that fell through.

### IV.

Leslie LeDoux testified that shortly thereafter, Martin telephoned and asked if she could have a couple of more weeks in effort to try and get Strachn’s house sold in order that she be able to buy the Falls Crossing property. LeDoux’s client Rimmer, owner of Rimmer Construction, agreed to the additional time as he wanted to work in good faith with Strachn and because he had made several costly upgrades to the property at Strachn’s request. When it became clear that Strachn would not be able to sell her house and close on the subject Falls Crossing property, LeDoux made demand of Terry Martin for the earnest money forfeited upon Strachn’s breach of the contract with Rimmer Construction.

V.

LeDoux demanded a termination agreement be executed along with tender of the \$1,000.00 earnest money deposit to her seller client. In a conversation with LeDoux around the same time, Martin inquired if Rimmer would give her client Strachn a credit in the amount of the earnest money deposit if she would be able to buy one of Rimmer Construction's properties in the future. LeDoux's client Rimmer agreed that he would give Strachn a credit on the purchase price of another home in the amount of the earnest money deposit if she received a contract on her Reunion home on or before March 1, 2017.

VI.

Martin submitted a Termination and Mutual Release Agreement (sometimes hereinafter "agreement" or "termination agreement") that had been partially completed and which had been duly executed by Strachn. The agreement memorialized that Strachn had withdrawn from the subject contract for the Falls Crossing property because the sale of her Reunion home had not closed. The agreement also set forth that Rimmer would "allow earnest money to be held to go toward the purchase of another house in Falls Crossing in the event [Strachn] receives a contract for the purchase of her [Reunion] home on or before March 1, 2017." Otherwise, the agreement Martin transmitted to LeDoux/Rimmer was incomplete in a section that was to be circled/noted, indicating one way or the other whether the earnest money that was on deposit with Keller Williams would be returned. When Rimmer executed as seller, he circled/noted that the earnest money "shall not be returned" and he inserted the words "to the buyer" to clarify his intention that Strachn would not receive the earnest money, same having been forfeited upon Strachn's voluntary withdrawal and breach of the contract for purchase of Rimmer's property. Rimmer testified accordingly at the hearing.

## VII.

Following execution of the termination agreement by Rimmer, the agreement was returned to Martin/Keller Williams on or about January 12, 2017. Several days later, LeDoux inquired of Martin as to when her client could expect to receive the funds. On or about January 18, Martin responded that her broker Phil Landers had interpreted the agreement to provide that the earnest money would be held in Keller Williams' escrow account until March 1 or tendered earlier if Strachn was able to purchase another home from Rimmer. LeDoux responded that it was her buyer client's intent that "he receive the earnest money immediately." Rimmer and LeDoux testified accordingly at the hearing.

## VIII.

Thereafter, LeDoux and Respondent Phil Landers spoke by telephone and exchanged several communications regarding LeDoux's demand that Keller Williams tender the earnest money to her client Rimmer. On January 18, 2017, Landers communicated to LeDoux and advised that he believed the termination agreement had been "changed" by Rimmer's circling of the "shall not be returned" language on the agreement. Landers stated that until his client Strachn had "initialed the changes," he believed the agreement was "not enforceable." This was almost a week after Keller Williams had received the executed termination agreement and almost a month since Keller Williams' client Strachn had announced her voluntary withdrawal from the contract to purchase Rimmer Construction's property.

## IX.

On January 19, 2017, Respondent Landers notified LeDoux that his client had still not "signed off" on the termination agreement Landers alleged was "modified" by Rimmer. Landers stated that he would not release the funds until his client acknowledged "the changes made to [the]

termination agreement by your client that authorizes [me] to release [the earnest money funds]...” Respondent Landers also notified LeDoux that he had requested information “from the lender” ostensibly to determine whether Strachn’s ability to have obtained financing for the purchase could ✓inform the proper disposition of the earnest money.

X.

Terry Martin testified by deposition prior to the Commission hearing and the transcript of her sworn testimony was received into evidence and made part of the hearing record. Martin testified that she knew that Strachn’s ability to close on Rimmer’s Falls Crossing house was contingent on Strachn selling her home in Reunion, but Martin had intentionally omitted such contingency language from the contract she drafted. Martin admitted she purposely left that contingency out of the contract because she believed “sellers who are builders of new construction do not accept a contingency on the sale of a home.” Martin testified her client had withdrawn because the sale of her house had fallen through and not because of any financing contingency. Martin admitted that she mentioned nothing about financing when she notified Leslie LeDoux that her client Strachn was withdrawing. Martin admitted that the termination agreement executed by the parties likewise made no mention of financing.

XI.

Following Respondent Landers’ continued refusal to tender the earnest money forfeited as a result of his buyer client’s voluntary withdrawal, LeDoux informed him that she had filed the formal complaint with the Commission. The following day, January 20, Respondent Landers tendered the earnest money funds to Rimmer Construction.

## XII.

Evidence obtained during the Commission investigation was introduced into the hearing record including two written “responses” of Respondent Landers to LeDoux’s allegations. In a response dated January 27, 2017, Landers stated to the Commission that “Keller Williams was first noticed by our buyer [Strachn] on or about Friday, January 6, 2017 that the buyer would not be able to complete the transaction due to the termination of a contract to purchase the buyers home. This was the first notice we had that she had a home to sell in order to purchase and was not a contingency she wanted in the purchase agreement.” Terry Martin testified in her hearing deposition that she disagreed with Landers’ statement that January 6 was the first date Keller Williams had notice of Strachn’s breach. Martin testified she had never seen the written responses submitted by Respondent Landers to the Commission. At the hearing, Respondent Landers admitted that, as Martin’s Responsible broker, he was responsible for all of Martin’s licensable activities.

## XIII.

Based upon all of the evidence and testimony introduced into the hearing record, it is clear that Respondent Landers knew, or should have known that Keller Williams’ buyer client had forfeited the subject earnest money upon her voluntary breach of the contract with Rimmer Construction. Upon termination of the contract for purchase of Rimmer Construction’s Fall Crossing property, there was no written agreement whereby Strachn had any obligation to use the brokerage services of Keller Williams should she have purchased another home from Rimmer Construction. As Responsible Broker for Terry Martin, Respondent Landers had sufficient information upon which he should have remitted the forfeited earnest money deposit to Rimmer

promptly upon termination of the transaction, and at least upon receipt of the executed termination agreement.

XIV.

McDowell matter

On or about February, 2017, the Commission received information that Salesperson Suzanne Paige McDowell was advertising on Facebook under the name “The McDowell Team,” Keller Williams Realty. The Commission obtained copies of numerous Facebook postings including a February 16, 2017 posting wherein McDowell posted that she had an “[O]ffice rented...check...buyer’s agent on board...check...office admin....check!” As of that date, the Commission had no record of licensure of “The McDowell Team” with Keller Williams Realty. Thereupon, the Commission initiated an investigation which ultimately resulted in the Commission bringing its own complaint against McDowell and her Responsible Broker, Respondent Phil Landers.

XV.

In its investigation, the Commission continued to monitor McDowell’s Facebook postings regarding her new office for “The McDowell Team” but could not determine from the postings the location of the new office. Ultimately, on or about April 17, 2017, the Commission was able to determine the location of the office based upon a mapping function on the subject Facebook page, which location was determined to be 309 E. Government Street in Brandon. At the Commission hearing, McDowell admitted that she must have entered the address information into Facebook in order for the mapping/location to have then populated on the Facebook site when Commission staff interacted further with the Facebook site. Copies of McDowell’s Facebook postings were introduced into evidence in the hearing record.

XVI.

At the hearing, Chief Investigator Jim King testified that he investigated the matter by traveling to the Brandon location on or about April 18, 2017. King testified that there was no signage on the office and no one present. Upon returning to the office, King called the telephone number that was populated on the Facebook page. King first reached a recording announcing the voicemail of “Ashley Boutout” with Keller Williams Realty. King called back and the call was answered by Suzie McDowell. Later that day, King went back to the Brandon office location. King testified he was greeted at the office by Ashley Boutout. King observed there were no wall licenses present at the office and inquired of Boutout of the location of the wall licenses. King testified that Boutout replied the licenses were at the Keller Williams office in Flowood.

XVII.

Chief Investigator King testified that Boutout stated that the McDowell Team office in Brandon had been open for about a week and that Suzie McDowell had met with several clients at the new office. At the Commission hearing, Boutout denied telling Investigator King that McDowell had met clients at the office. Upon Commission inquiry of Respondent Phil Landers as to the circumstances of the McDowell Team office, Respondent Phil Landers, Responsible Broker for Suzie McDowell, then submitted application for the establishment of McDowell’s office as a branch office for Keller Williams Realty.

XVIII.

On or about June 15, 2017, the Commission obtained additional evidence of McDowell advertising the “McDowell Team” independently of her broker. The Commission obtained a photograph which depicted a directional sign with the words “Home for Sale The McDowell Team

601-706-9833.” As of that date, there was no license issued by the Commission in that name and there was no information for a licensed broker displayed on the sign.

XIX.

In response to Commission inquiry, Respondent Landers stated that the subject directional signs had been misprinted by the printer and then distributed by McDowell’s daughter/assistant without McDowell having seen the signs. McDowell testified accordingly at the hearing that the signs had been misprinted. Landers and McDowell both testified that all of the signs were removed promptly upon notification by the Commission. Respondent Landers admitted at the hearing that he had not inspected his agent McDowell’s signs for approval before they were placed before the public. Landers admitted at the Commission hearing that, as Responsible Broker, he was responsible for all of the licensable activities of his agents.

CONCLUSIONS OF LAW

XX.

The Commission finds upon clear and convincing evidence introduced at the Commission hearing that the above and foregoing described acts and omissions of Respondent Phil Landers, along with the acts and omissions of his agent salespersons Terry Martin and Suzie McDowell for which Respondent Landers bears responsibility, 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 and in relevant part:

§73-35-21(1)(d) Any misleading or untruthful advertising;

§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...

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 3.3A The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as “substantial misrepresentation” and cause for refusal, suspension, or revocation of the license.

...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.

Rule 3.3C ...A broker shall advertise in the name in which the license is issued. A broker may use a descriptive term after the broker’s name to indicate the occupation in which engaged, for example, “realty,” “real estate,” “property management.” If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.

Rule 3.4A The responsible broker is responsible at all times for earnest money deposits. Earnest money accepted by the broker or any licensee for which the broker is responsible and upon acceptance of a mutually agreeable contract is required to deposit the money into a trust account prior to close of the next banking day. The responsible broker is required to promptly account for and remit the full amount of the deposit or earnest money at the consummation or termination of the transaction. A licensee is required to pay over to the responsible broker all deposits and earnest money immediately upon receipt thereof... Failure to comply with this regulation shall constitute grounds for revocation or suspension of license.

#### DISCIPLINARY ORDER

Having issued its Findings of Fact and Conclusions of Law based upon clear and convincing evidence introduced at the consolidated hearing of the above styled causes, the Commission hereby issues its Disciplinary Order to Respondent Phil Landers as follows:

1. With regard to the Commission’s findings of violations in the *Martin* matter, the real estate broker’s license of Respondent Phil Landers shall be suspended for a period of thirty (30) days, said suspension to be held in abeyance.

2. With regard to the Commission's findings of violations in the *McDowell* matter, the real estate broker's license of Respondent Phil Landers shall be suspended for a period of thirty (30) days, said suspension to be held in abeyance.

3. The two (2) periods of suspension in abeyance shall run concurrently.

4. During the concurrent periods of license suspension in abeyance, Respondent Landers will be permitted to continue the practice of a real estate broker in the State of Mississippi insofar as he complies with all of the laws and regulations governing the practice of real estate in the State of Mississippi.

This Order shall become effective thirty (30) days from the date of this Order.

This the 10<sup>th</sup> day of July, 2018.



MISSISSIPPI REAL ESTATE COMMISSION

By: Susan C. James  
Chairperson, For and on Behalf of the  
Mississippi Real Estate Commission

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 21-1804

ANDREA G. LEWIS, BROKER;

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 Andrea G. Lewis, Broker. Prior to the hearing before the Commission, the parties announced their agreement as to the allegations of the complaint and disciplinary action for the Respondent Andrea G. Lewis, all as set forth herein. By entering into this Agreed Order, Respondent waives her right to a hearing with full due process and the right to appeal any adverse decision resulting 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 Andrea G. Lewis, sometimes hereinafter "Respondent" or "Lewis," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 102 Landsdown Drive, Vicksburg, Mississippi 39180. Respondent Lewis

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.

## II.

On or about April 10, 2018 the Commission received a sworn complaint from Farrah Cox (sometimes hereinafter "Complainant" or "Complainant Cox") submitted on behalf of her mother-in-law, Mable Cox (sometimes hereinafter "Mable"). Complainant Cox stated that Respondent Andrea Lewis had listed Mable Cox' house for sale located at 1415 Highway 3, Redwood, Mississippi 39154 in August, 2017. Thereafter, the Commission initiated an investigation of the sworn complaint.

## III.

Complainant Cox complained that she reviewed the online listing for Mable's home and noted several errors in the listing as of August, 2017. A primary error regarded an incorrect listing of bedrooms in the home. Complainant advised Mable that she should contact her agent, Respondent Lewis, to request corrections of the online listing. Complainant stated that Mable informed Lewis of the errors to be corrected but that the online listing still reflected errors as late as November, 2017. Complainant Cox complained that Respondent Lewis had not been diligent to assure that the listing of the home was accurate. Additionally, Complainant Cox complained she believed Mable had not received copies of the listing agreement at the time she had signed same as is required.

Complainant Cox complained that she then reached out to Respondent Lewis to voice her concerns regarding the listing of the home and issues with copies of the listing documents.

IV.

Respondent Lewis' listing agreement for Mable Cox' home expired on or about February 21, 2018 and Mable Cox thereafter listed the home for sale with another broker, Tonya Bounds. Complainant Cox claimed that Respondent Lewis' yard sign and key dropbox were not timely removed from the property upon expiration of Respondent's listing but were removed by Complainant Cox and family members days later.

V.

Ultimately, Respondent Lewis informed the new listing Broker Bounds that she had a potential buyer, Earls, who was interested in the property. Respondent Lewis had shown Mable's home to Earls previously when she held the listing. A new Property Condition Disclosure Statement (PCDS) was completed, negotiations ensued and a contract between Earls and Mable Cox was executed. Following Earls' subsequent inspection of the property, his offer was withdrawn due to certain concerns with the condition of the property. Earls was released from the contract and his earnest money was returned.

VI.

During the Commission investigation, Respondent Lewis cooperated fully with the Commission investigation. Documents and responses were received from Respondent Lewis regarding the allegations in the sworn complaint. Lewis denied that she had failed to diligently represent Mable Cox during the period of her listing of Cox' home and denied

that she had been instructed by Mable to make changes to the online listing. Documents and evidence obtained during the Commission investigation reflect that changes to the listing were made by Lewis following communications with Complainant.

## VII.

During the Commission investigation, Respondent Lewis admitted she had shown the property during her period of holding the listing to Earls and to "other potential buyers." Upon inquiry by the Commission, Respondent was unable to provide documentation that Earls or any other potential buyer had completed the required Working With Real Estate Broker forms upon meeting with Lewis to view the property during her period of listing the property. Respondent Lewis did not provide documentation that her buyer client Earls had ever signed or dated the PCDS delivered to him prior to his execution of the contract to purchase the property.

## CONCLUSIONS OF LAW

## VIII.

The Commission and Respondent agree that the above and foregoing described acts and omissions, if proved at hearing before the Commission upon clear and convincing evidence, could constitute violations of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and the Rules and Regulations of the Commission, and, more specifically, Miss. Code Ann. §73-35-21(1)(n) and Rules 3.2G, 4.1 G, 4.2G, 4.2H, and 4.3B, which provide, in relevant parts:

§73-35-21(1)

\*\*\*

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

Rule 3.2 Documents

\*\*\*

G. A real estate broker must keep on file for three years following its consummation, complete records relating to any real estate transaction. This includes, but is not limited to:... agency agreements...

Rule 4.1 Agency Relationship Disclosure- Purpose

\*\*\*

G. The terms of the agency relationship shall be ratified on all contracts pertaining to real estate transactions.

Rule 4.2 Agency Relationship Disclosure- Definitions

\*\*\*

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

\*\*\*

(2) 'Obedience' -the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

H. "First substantive meeting" shall be:

(1) In a real estate transaction in which the Broker is the agent for the seller, first substantive meeting shall be before of just immediately prior to the first of any of the following:

- (a) Showing the property to a prospective buyer.
- (b) Eliciting confidential information from a buyer concerning the buyers' real estate needs, motivation, or financial qualifications.

#### Rule 4.3 Disclosure Requirements

\*\*\*

B. In a single agency, a broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form.

#### DISCIPLINARY ORDER

Upon agreement and consent of Respondent as to disciplinary terms and disposition of the 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 Andrea G. Lewis will be suspended for a period of thirty (30) days, held in abeyance. During the period of suspension in abeyance, Respondent Lewis will be permitted to continue the practice of real estate in the State of Mississippi insofar as she complies with all Mississippi Real Estate Commission statutes, rules and regulations; and
2. Following the period of suspension held in abeyance, Respondent's license will be placed on probation for a period of eleven (11) months; and
3. Within sixty (60) days of the effective date of this Agreed Order, 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 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 continuing education hours required for renewal of Respondent's license and shall not be the same continuing education course from the same provider previously completed for the renewal of Respondent's license during the last two (2) renewal periods. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

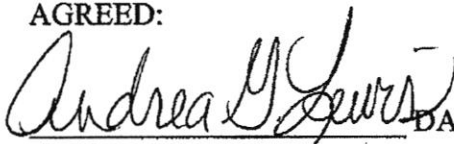
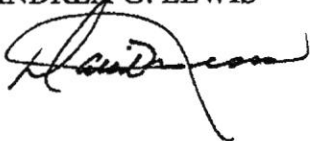
4. This Agreed Order shall be effective upon the date it is executed by the Commission.

THIS the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY: \_\_\_\_\_  
ROBERT E. PRAYTOR, Administrator

AGREED:

  
ANDREA G. LEWIS  
DATE 11/1/18  
 11/1/18

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 21-1804

ANDREA G. LEWIS, BROKER;

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 Andrea G. Lewis, Broker. Prior to the hearing before the Commission, the parties announced their agreement as to the allegations of the complaint and disciplinary action for the Respondent Andrea G. Lewis, all as set forth herein. By entering into this Agreed Order, Respondent waives her right to a hearing with full due process and the right to appeal any adverse decision resulting 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 Andrea G. Lewis, sometimes hereinafter "Respondent" or "Lewis," is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 102 Landsdown Drive, Vicksburg, Mississippi 39180. Respondent Lewis

*AL*

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.

## II.

On or about April 10, 2018 the Commission received a sworn complaint from Farrah Cox (sometimes hereinafter "Complainant" or "Complainant Cox") submitted on behalf of her mother-in-law, Mable Cox (sometimes hereinafter "Mable"). Complainant Cox stated that Respondent Andrea Lewis had listed Mable Cox' house for sale located at 1415 Highway 3, Redwood, Mississippi 39154 in August, 2017. Thereafter, the Commission initiated an investigation of the sworn complaint.

## III.

Complainant Cox complained that she reviewed the online listing for Mable's home and noted several errors in the listing as of August, 2017. A primary error regarded an incorrect listing of bedrooms in the home. Complainant advised Mable that she should contact her agent, Respondent Lewis, to request corrections of the online listing. Complainant stated that Mable informed Lewis of the errors to be corrected but that the online listing still reflected errors as late as November, 2017. Complainant Cox complained that Respondent Lewis had not been diligent to assure that the listing of the home was accurate. Additionally, Complainant Cox complained she believed Mable had not received copies of the listing agreement at the time she had signed same as is required.

Complainant Cox complained that she then reached out to Respondent Lewis to voice her concerns regarding the listing of the home and issues with copies of the listing documents.

IV.

Respondent Lewis' listing agreement for Mable Cox' home expired on or about February 21, 2018 and Mable Cox thereafter listed the home for sale with another broker, Tonya Bounds. Complainant Cox claimed that Respondent Lewis' yard sign and key dropbox were not timely removed from the property upon expiration of Respondent's listing but were removed by Complainant Cox and family members days later.

V.

Ultimately, Respondent Lewis informed the new listing Broker Bounds that she had a potential buyer, Earls, who was interested in the property. Respondent Lewis had shown Mable's home to Earls previously when she held the listing. A new Property Condition Disclosure Statement (PCDS) was completed, negotiations ensued and a contract between Earls and Mable Cox was executed. Following Earls' subsequent inspection of the property, his offer was withdrawn due to certain concerns with the condition of the property. Earls was released from the contract and his earnest money was returned.

VI.

During the Commission investigation, Respondent Lewis cooperated fully with the Commission investigation. Documents and responses were received from Respondent Lewis regarding the allegations in the sworn complaint. Lewis denied that she had failed to diligently represent Mable Cox during the period of her listing of Cox' home and denied

that she had been instructed by Mable to make changes to the online listing. Documents and evidence obtained during the Commission investigation reflect that changes to the listing were made by Lewis following communications with Complainant.

## VII.

During the Commission investigation, Respondent Lewis admitted she had shown the property during her period of holding the listing to Earls and to "other potential buyers." Upon inquiry by the Commission, Respondent was unable to provide documentation that Earls or any other potential buyer had completed the required Working With Real Estate Broker forms upon meeting with Lewis to view the property during her period of listing the property. Respondent Lewis did not provide documentation that her buyer client Earls had ever signed or dated the PCDS delivered to him prior to his execution of the contract to purchase the property.

## CONCLUSIONS OF LAW

## VIII.

The Commission and Respondent agree that the above and foregoing described acts and omissions, if proved at hearing before the Commission upon clear and convincing evidence, could constitute violations of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and the Rules and Regulations of the Commission, and, more specifically, Miss. Code Ann. §73-35-21(1)(n) and Rules 3.2G, 4.1 G, 4.2G, 4.2H, and 4.3B, which provide, in relevant parts:

§73-35-21(1)

\*\*\*

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

Rule 3.2 Documents

\*\*\*

G. A real estate broker must keep on file for three years following its consummation, complete records relating to any real estate transaction. This includes, but is not limited to:... agency agreements...

Rule 4.1 Agency Relationship Disclosure- Purpose

\*\*\*

G. The terms of the agency relationship shall be ratified on all contracts pertaining to real estate transactions.

Rule 4.2 Agency Relationship Disclosure- Definitions

\*\*\*

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

\*\*\*

(2) 'Obedience' -the agent agrees to obey any lawful instruction from the principal in the execution of the transaction that is the subject of the agency.

H. "First substantive meeting" shall be:

(1) In a real estate transaction in which the Broker is the agent for the seller, first substantive meeting shall be before of just immediately prior to the first of any of the following:

- (a) Showing the property to a prospective buyer.
- (b) Eliciting confidential information from a buyer concerning the buyers' real estate needs, motivation, or financial qualifications.

#### Rule 4.3 Disclosure Requirements

\*\*\*

B. In a single agency, a broker is required to disclose, in writing, to the party for whom the broker is not an agent, that the broker is an agent of another party in the transaction. The written disclosure shall be made at the time of the first substantive meeting with the party for whom the broker is not an agent. This shall be on an MREC Agency Disclosure Form.

#### DISCIPLINARY ORDER

Upon agreement and consent of Respondent as to disciplinary terms and disposition of the 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 Andrea G. Lewis will be suspended for a period of thirty (30) days, held in abeyance. During the period of suspension in abeyance, Respondent Lewis will be permitted to continue the practice of real estate in the State of Mississippi insofar as she complies with all Mississippi Real Estate Commission statutes, rules and regulations; and
2. Following the period of suspension held in abeyance, Respondent's license will be placed on probation for a period of eleven (11) months; and
3. Within sixty (60) days of the effective date of this Agreed Order, 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 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 continuing education hours required for renewal of Respondent's license and shall not be the same continuing education course from the same provider previously completed for the renewal of Respondent's license during the last two (2) renewal periods. Respondent 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 it is executed by the Commission.

THIS the 15<sup>th</sup> day of NOVEMBER, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

Andrea G. Lewis DATE 11/1/18  
ANDREA G. LEWIS  
Handwritten signature 11/1/18





**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**No. 011-1803**

**RICHARD LYNN LEWIS, BROKER  
DIANA LYNN CUPPLES, SALESPERSON, and  
EHRIN NICOLE NEESE, 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. on a formal complaint brought against Respondents Richard Lynn Lewis, Broker, Diana Lynn Cupples, Salesperson, and Ehrin Nicole Neese, Salesperson. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondents. This agreement is for a suspension of each Respondent's license in lieu of further disciplinary proceedings. By entering into this Agreed Order, all three Respondents waive his/her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:

## **I.**

Respondent Richard Lynn Lewis, Broker, sometimes hereinafter "Respondent" or "Lewis" is an adult resident citizen of MS whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, MS 38638. Respondent Lewis is the holder of a real estate broker's license issued by the Commission pursuant to Mississippi Code Ann. §73-35-1, et seq., as amended and, as such, he is subject to the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate brokers under Miss. law. At all relevant times, Respondent Lewis was the responsible broker for salespersons Diana Lynn Cupples and Ehrin Nicole Neese.

## **II.**

Respondent Diana Lynn Cupples, Salesperson, sometimes hereinafter "Respondent" or "Cupples" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Cupples 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 the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law.

## **III.**

Respondent Ehrin Nicole Neese, Salesperson, sometimes hereinafter "Respondent" or "Neese" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Neese 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 the provisions, rules,

regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law

#### IV.

On or about September 25, 2017, the Commission received a sworn complaint from Erik and Michelle Horne, sometimes hereinafter the "Hornes." The Hornes complained that they were the owners of rental property managed by Respondents through Allstar Management, LLC, sometimes hereinafter "Allstar," for whom Respondent Lewis is the responsible broker. Among other complaints, the Hornes complained that they lost a significant amount of rental income, and incurred unnecessary maintenance expenses, because of issues attendant to Respondents' management of the Hornes' property located at 4140 Amherst Drive, Olive Branch, Mississippi.

#### V.

On or about March, 2017, the Hornes were contacted by Respondent Nicole Neese, salesperson, informing them that the tenants in the Amherst Drive property wanted to renew their lease for another twelve (12) month term. These tenants had previously given their notice to vacate the property but now requested a renewal of the lease. The Hornes agreed to the lease renewal for a new twelve month term beginning March, 2017.

#### VI.

On or about July 19, 2017, the Hornes received an email communication from James Jones, an unlicensed employee with Allstar Management, informing them that "the tenants at 4140 Amherst Drive... have given proper 30 day notice. Their move out date will be 8/31/2017." The Hornes complained to Respondents that they were confused by this information, since they had approved the tenants' request for a renewal of the lease.

## VII.

The next day, July 20, Respondent Cupples then informed the Hornes that the tenants had signed the lease extension form but had returned it by cellphone picture to Respondent Nicole Neese. Neese had informed the tenants to resubmit the signed extension, but it was never received. Respondents admitted that the extension had not been documented in the property management system. Thereafter, when the tenants gave notice to vacate the property, Respondents' unlicensed staff recorded the notice as having been properly given. Respondents did not follow up with the tenants to make sure the original signed extension was received or that the extension of the lease was properly documented in the files. In her July 20 correspondence to the Hornes, Respondent Cupples stated that, as far as she was concerned, the tenants had signed the extension/renewal and were therefore bound to the extended lease term. Cupples informed the Hornes she would have "James [Jones] contact [the tenants] to notify them" that they would be in breach of the lease if they vacated the property early. James Jones is an unlicensed employee of Respondents' property management company.

Thereafter, the Hornes communicated with Respondents in efforts to determine the status of the lease matter. The Hornes were informed that the Broker, Respondent Richard "Ricky" Lewis, would be consulted but the Hornes complained that they never heard from Lewis. The tenants did not pay rent for August and the Hornes were informed on August 11, 2017 that the tenants had made a promise to pay.

### **VIII.**

The Hornes contacted the Respondents again on August 16 to find out if the rent had been paid and to inquire again about the status of the renewal matter as they were concerned that there was not an original executed lease on file. Respondents were notified the next day, August 17, by Chris Napper that suit had been filed in Justice Court against the tenants with a September 5 court date. Napper explained that they would continue "to try our best in collecting the rent and will keep you updated." Chris Napper is also an unlicensed employee of the property management company. The Hornes responded that same day and inquired whether anyone had physically inspected the residence to determine whether the tenants were still occupying the property. Over a week later, on or about August 25, the Hornes were informed by Lisa Stewart, also an unlicensed employee, that the tenants had, in fact, vacated the property and not paid rent. Stewart reminded the Hornes that the matter of the unpaid rent was pending in court. Stewart stated that "[o]verall, the property did not appear to be in bad shape, but will need a good cleaning, carpet cleaning, fresh coat of paint on the walls, and some yard maintenance. "

### **IX.**

The Hornes complained that they physically inspected the property only five (5) days later and claimed they discovered that the house "WAS in bad shape." The Hornes complained that there were shingles visibly missing from the roof, causing a water leak with visible water stains and mold in the garage, damaged walls, and missing fixtures and drain pipes from the home. The Hornes complained that Respondents' property management firm had agreed to inspect the property every three (3) months while changing out air conditioning filters and that the damage would have been apparent during the last recorded filter change in July, 2017.

## **X.**

The Hornes complained that they asked for a copy of the property management agreement for their property and were given a copy of the agreement that they signed in March, 2015 but which expired in February, 2016. The Hornes were never given nor asked to sign a new management agreement after that time. During the Commission investigation, a copy of the subject management agreement was obtained and it was not signed by Respondent Lewis or an agent of Respondents' property management firm, Allstar Management.

## **XI.**

The above and foregoing acts and omissions of Respondents 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, §73-35-3, §73-35-21(1) and Commission Rules 3.1A, 3.1B, and 4.2G(5), 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 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.

§73-35-3(1) The term "real estate broker"... shall include all persons... who... lease, manage, any real estate, or the improvements thereon,... or who negotiate or attempt to negotiate such activity...

§73-35-3(4) The term "real estate salesperson" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in subsection (1) of this section, for compensation or otherwise.

§73-35-21 (1) The commission may, upon its own motion and shall upon the verified complaint in writing of any person, hold a hearing for... the suspension or revocation of a license... or for such other action as the commission deems appropriate. The commission shall have full power 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:

(a) Making any substantial misrepresentation in connection with a real estate transaction.

(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 3.1 A It shall be the duty of the responsible broker to instruct the licensees 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 3.1 B 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 action 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.

Rule 4.2 G "Fiduciary duties" 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**

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

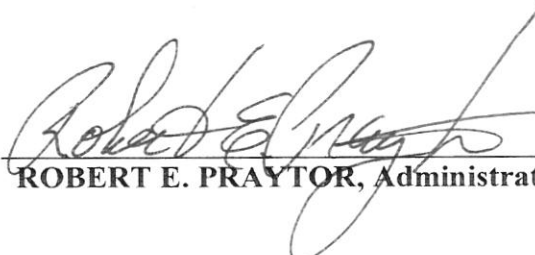
As to each Respondent individually, the Commission orders that his/her license incur a 6 (six) month suspension period, with one month to serve and five (5) of those months of suspension held in abeyance, pending successful completion of probation. The 1 month of suspension will be immediately followed by six (6) months of probation that will be contingent upon both future compliance by each Respondent with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon each Respondent completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during that 1 month of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him/her for license renewal and will not be the same classes from the same provider as those used by these Respondents in their individual last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Lewis's suspension will start Dec. 01, 2018 and will be immediately followed by the six (6) month probation period. Respondent Cupples and Neese's suspension periods will immediately follow, in whichever order they choose, to be followed by their respective 6 month probation period.

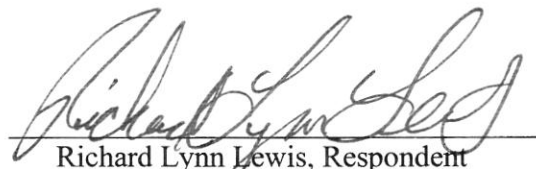


SO FOUND AND ORDERED this the 15<sup>th</sup> day of NOVEMBER, 2018.

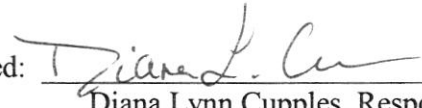


MISSISSIPPI REAL ESTATE COMMISSION

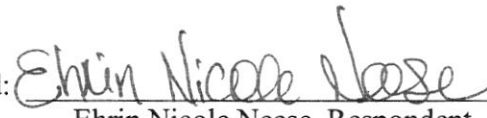
  
ROBERT E. PRAYTOR, Administrator

Agreed:   
Richard Lynn Lewis, Respondent

Date: 10/8/18

Agreed:   
Diana Lynn Cupples, Respondent

Date: 11/8/18

Agreed:   
Ehrin Nicole Neese, Respondent

Date: 11/12/18

**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 011-1701**

**PHILIP LANDERS, BROKER AND  
TERRY MARTIN, SALESPERSON**

**RESPONDENTS**

**AGREED ORDER OF RESPONDENT TERRY MARTIN**

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 Philip Landers, Broker (sometimes hereinafter “Landers”), and Terry Martin, Salesperson (sometimes hereinafter “Respondent” or “Martin”). Prior to the hearing before the Commission, the Commission and Respondent Terry Martin announced Martin’s agreement as to the resolution of the matters alleged and any disciplinary action to be imposed. By entering into this Agreed Order, as evidenced by her signature affixed hereto, Respondent Terry Martin voluntarily waives her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing<sup>1</sup>. Having reached an agreement on the matter as to any and all allegations regarding Respondent Terry Martin, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

**FINDINGS OF FACT**

**I.**

Respondent Terry Martin is an adult resident of Mississippi, whose last known address of record with the Commission is c/o Keller Williams, 132 Riverview Dr., Suite A, Flowood,

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<sup>1</sup> Philip Landers, Broker, exercised his right to proceed to a formal hearing of the Commission’s allegations which hearing was held on June 12, 2018.

Mississippi 39232. Respondent Martin is the holder of a real estate salesperson's license issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), 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. Respondent Martin is an agent with Keller Williams Realty whose responsible broker is Philip Landers.

## II.

On or about January 20, 2017, the Commission received a sworn statement of complaint from Leslie LeDoux. LeDoux complained that she represented Steve Rimmer Construction, Inc. (sometimes hereinafter "Rimmer Construction") in a transaction for the sale of one of Rimmer Construction's properties located at 232 Falls Crossing, Madison, Mississippi 39110, which transaction did not close. The prospective purchaser was Donna Strachn (sometimes hereinafter "Strachn") who was represented by Terry Martin.

## III.

LeDoux complained that the parties had entered into a contract for the purchase of the Falls Crossing property and Strachn tendered \$1000.00 in earnest money that was deposited with Keller Williams. On or about December 20, 2016, LeDoux received a call from Respondent Terry Martin who explained that her buyer client Strachn was withdrawing from the contract because the sale of her current home in the Reunion subdivision had fallen through. Martin explained the reason Strachn was voluntarily withdrawing was that the prospective buyer of her home in Reunion had withdrawn their offer due to a home inspection. LeDoux informed Martin that there was no contingency in the contract regarding the sale of Strachn's own home and, the buyer having breached the contract, the earnest money would be forfeited to LeDoux's seller client Rimmer

Construction. Terry Martin was listing agent for Strachn's home in Reunion and acted in the capacity of dual agent in the transaction for Strachn's Reunion home that fell through.

IV.

Shortly thereafter, Martin telephoned LeDoux and asked if she could have a couple of more weeks in effort to try and get Strachn's house sold in order that she be able to buy the Falls Crossing property. LeDoux's client Rimmer, owner of Rimmer Construction, agreed to the additional time. When it became clear that Strachn would not be able to sell her house and close on the subject Falls Crossing property, LeDoux made demand of Terry Martin for the earnest money forfeited upon Strachn's voluntary withdrawal and breach of the contract with Rimmer Construction.

V.

LeDoux demanded a termination agreement be executed along with tender of the \$1,000.00 earnest money deposit to her seller client. In a conversation with LeDoux around the same time, Martin inquired if Rimmer would give her client Strachn a credit in the amount of the earnest money deposit if she would be able to buy one of Rimmer Construction's properties in the future. LeDoux's client Rimmer agreed that he would give Strachn a credit on the purchase price of another home in the amount of the earnest money deposit if she received a contract on her Reunion home on or before March 1, 2017.

VI.

Martin submitted a Termination and Mutual Release Agreement (sometimes hereinafter "agreement" or "termination agreement") that had been partially completed and which had been duly executed by Strachn. The agreement memorialized that Strachn had withdrawn from the subject contract for the Falls Crossing property because the sale of her Reunion home had not closed. The agreement also set forth that Rimmer would "allow earnest money to be held to go

toward the purchase of another house in Falls Crossing in the event [Strachn] receives a contract for the purchase of her [Reunion] home on or before March 1, 2017.” Otherwise, the agreement Martin transmitted to LeDoux/Rimmer was incomplete in a section that was to be circled/noted, indicating one way or the other whether the earnest money that was on deposit with Keller Williams would be returned. When Rimmer executed as seller, he circled/noted that the earnest money “shall not be returned” and he inserted the words “to the buyer” to clarify his intention that Strachn would not receive the earnest money, same having been forfeited upon Strachn’s voluntary withdrawal and breach of the contract for purchase of Rimmer’s property.

#### VII.

Following execution of the termination agreement by Rimmer, the agreement was returned to Martin/Keller Williams on or about January 12, 2017. Several days later, LeDoux inquired of Martin as to when her client could expect to receive the funds. On or about January 18, Martin responded that her broker Philip Landers had interpreted the agreement to provide that the earnest money would be held in Keller Williams’ escrow account until March 1 or tendered earlier if Strachn was able to purchase another home from Rimmer. LeDoux responded that it was her buyer client’s intent that “he receive the earnest money immediately.”

#### VIII.

Thereafter, LeDoux and Landers spoke by telephone and exchanged several communications regarding LeDoux’s demand that Keller Williams tender the earnest money to her client Rimmer. On January 18, 2017, Landers communicated to LeDoux and advised that he believed the termination agreement had been “changed” by Rimmer’s circling of the “shall not be returned” language on the agreement. Landers stated that until his client Strachn had “initialed the changes,” he believed the agreement was “not enforceable.” This was almost a week after Keller

Williams had received the executed termination agreement and almost a month since Keller Williams' client Strachn had announced her voluntary withdrawal from the contract to purchase Rimmer Construction's property.

IX.

On January 19, 2017, Landers notified LeDoux that his client had still not "signed off" on the termination agreement Landers alleged was "modified" by Rimmer. Landers stated that he would not release the funds until his client acknowledged "the changes made to [the] termination agreement by your client that authorizes [me] to release [the earnest money funds]..." Landers also notified LeDoux that he had requested information "from the lender" ostensibly to determine whether Strachn's ability to have obtained financing for the purchase could inform the proper disposition of the earnest money.

X.

Terry Martin testified by deposition prior to the Commission hearing of the allegations against her responsible broker Philip Landers. Under oath, Martin testified that she knew that Strachn's ability to close on Rimmer's Falls Crossing house was contingent on Strachn selling her home in Reunion, but that she had intentionally omitted such contingency language from the contract she drafted. Martin admitted she purposely left that contingency out of the contract because she believed "sellers who are builders of new construction do not accept a contingency on the sale of a home." Martin testified her client had withdrawn because the sale of her house had fallen through and not because of any financing contingency. Martin admitted that she mentioned nothing about financing when she notified Leslie LeDoux that her client Strachn was withdrawing. Martin admitted that the termination agreement executed by the parties likewise made no mention of financing.

XI.

Following the continued refusal to tender the earnest money forfeited as a result of Martin's client's voluntary withdrawal, LeDoux informed Landers that she had filed a formal complaint with the Commission. The following day, January 20, Keller Williams Realty tendered the earnest money funds to Rimmer Construction.

CONCLUSIONS OF LAW

XII.

The Commission finds the above and foregoing described acts and omissions of Respondent Terry Martin constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, §§73-35-1, *et seq.*, Miss. Code Ann., and more specifically, §73-35-21(1)(n) which provides in relevant part:

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

DISCIPLINARY ORDER

Having issued its Findings of Fact and Conclusions of Law, and by agreement with Respondent Terry Martin, the Commission hereby issues its Disciplinary Order as follows:

This Agreed Order shall constitute a FORMAL LETTER OF REPRIMAND issued to Respondent Terry Martin. A copy of this Agreed Order shall be placed in Respondent's permanent license file maintained at the Commission offices.

This the 20<sup>th</sup> day of July, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY: Robert E. Praytor

ROBERT E. PRAYTOR, Administrator

AGREED:

BY: Terry Martin



# Mississippi Real Estate Commission

ADMINISTRATOR  
ROBERT B. PRAYTOR



LEFLEUR'S BLUFF TOWER, SUITE 300  
4780 I-55 NORTH, JACKSON, MS 39211

P.O. BOX 12685  
JACKSON, MS 39236

(601) 321-6970 - Office  
(601) 321-6955 - Fax

[www.mrec.ms.gov](http://www.mrec.ms.gov)

January 26, 2018

## OFFICIAL LETTER OF CAUTION

Douglas W. Maselle, Principal Broker  
Century 21 Maselle & Associates  
4001 Lakeland Drive  
Flowood, MS 39232

**RE: MREC Case #067-1709**  
**MREC v. Douglas W. Maselle, Principal Broker**  
**Monique DeJean Maselle, Salesperson**  
**Brenda Price Spiers, Salesperson**  
**Alyce & Larry Hays – Complainants**

Dear Mr. Maselle:

The Mississippi Real Estate Commission has concluded its investigation in the matter of the above referenced case.

The Legal Counsel of the Commission and the MREC Investigative Staff believe that the information and documentation obtained during the investigation of this complaint is sufficient to show that you were in violation of Rule 3.1(A) of the Mississippi Real Estate Commission Administrative Rules and Regulations. However, your actions were not of such a nature that they warranted a formal disciplinary action.

**Rule 3.1 (A) states:**

***"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."***

This Official Letter of Caution will be placed in your file and will become a part of your permanent record. You should take every precaution to familiarize yourself with the Real Estate Brokers License Act of 1954, as Amended, and the Administrative Rules and Regulations of the Real Estate Commission in order to avoid a serious violation which might negatively impact the status of your license.

If you have any questions pertaining to this matter, please contact Investigator, Jim King.





MISSISSIPPI

Robert E. Praytor

Administrator

Mississippi Real Estate Commission

# Mississippi Real Estate Commission

ADMINISTRATOR  
ROBERT E. PRAYTOR

LEFLEUR'S BLUFF TOWER, SUITE 300  
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MISSISSIPPI

January 26, 2018

## OFFICIAL LETTER OF REPRIMAND

Monique DeJean Maselle, Salesperson  
Century 21 Maselle & Associates  
4001 Lakeland Drive  
Flowood, MS 39232

**RE: MREC Case #067-1709**  
**MREC v Douglas W. Maselle, Principal Broker**  
**Monique DeJean Maselle, Salesperson**  
**Brenda Price Spiers, Salesperson**

Dear Ms. Maselle:

The Mississippi Real Estate Commission has concluded its investigation in the matter of the above referenced case.

The Legal Counsel and the Investigative Staff of the Real Estate Commission believes that the information obtained during the investigation of this complaint is sufficient to show that you were in violation of **Rule 4.2 (F)** of the Mississippi Code.

Rule 4.3 (F) states:

*“Disclosed Dual Agent shall mean that agent representing both parties to a real estate transaction with the informed consent of both parties, with written understanding of specific duties and representation to be afforded each party. There may be situations where disclosed dual agency presents conflicts of interest that cannot be resolved without breach of duty to one party or another. Brokers who practice disclosed dual agency should do so with the utmost caution to protect consumers and themselves from inadvertent violation of demanding common law standards of disclosed dual agency.”*

This Official Letter of Reprimand will be placed in your file to become a part of your permanent record. You should take every precaution to familiarize yourself with the Real Estate Brokers License Act of 1954, as Amended, and the Administrative Rules and Regulations of the Real Estate Commission so that you might avoid a serious violation which could negatively impact the status of your license.



MISSISSIPPI

**Robert E. Praytor**  
Administrator  
Mississippi Real Estate Commission

**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**NO. 044-1706**

**PHILIP LANDERS, BROKER AND  
SUZANNE PAIGE MCDOWELL, SALESPERSON**

**RESPONDENTS**

**AGREED ORDER OF SUZANNE PAIGE MCDOWELL**

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 Philip Landers, Broker (sometimes hereinafter “Landers”), and Suzanne Paige McDowell, Salesperson (sometimes hereinafter “Respondent” or “McDowell”). Prior to the hearing before the Commission, the Commission and Respondent Suzanne Paige McDowell announced McDowell’s agreement as to the resolution of the matters alleged and any disciplinary action to be imposed. By entering into this Agreed Order, Respondent Suzanne Paige McDowell waives her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing<sup>1</sup>. Having reached an agreement on the matter as to any and all allegations regarding Respondent Suzanne Paige McDowell, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

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<sup>1</sup> Philip Landers, Broker, exercised his right to proceed to a formal hearing of the Commission’s allegations on June 12, 2018.

## FINDINGS OF FACT

### I.

Respondent Suzanne Paige McDowell is an adult resident of Mississippi, whose last known address of record with the Commission is c/o Keller Williams, 309 E. Government Street, Suite A, Brandon, Mississippi 39042. Respondent McDowell is the holder of a real estate salesperson's license issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, as such, she is subject to all of the provisions, rules, regulations and statutes governing the advertising, sale and transfer of real estate and licensing of real estate salespersons under Mississippi law. Respondent McDowell is an agent with Keller Williams Realty whose responsible broker is Philip Landers.

### II.

On or about February, 2017, the Commission received information that Salesperson Suzanne Paige McDowell was advertising on Facebook under the name "The McDowell Team," Keller Williams Realty. The Commission obtained copies of numerous Facebook postings including a February 16, 2017 posting wherein McDowell posted that she had an "[O]ffice rented...check...buyer's agent on board...check...office admin....check!" As of that date, the Commission had no record of licensure of "The McDowell Team" with Keller Williams Realty. Thereupon, the Commission initiated an investigation which ultimately resulted in the Commission bringing its own complaint against McDowell and her Responsible Broker, Philip Landers.

### III.

In its investigation, the Commission continued to monitor McDowell's Facebook postings regarding her new office for "The McDowell Team" but could not determine from the postings

the location of the new office. Ultimately, on or about April 17, 2017, the Commission was able to determine the location of the office based upon a mapping function on the subject Facebook page, which location was determined to be 309 E. Government Street in Brandon.

#### IV.

Chief Investigator Jim King investigated the matter by traveling to the Brandon location on or about April 18, 2017. King observed no signage on the office and no one present. Upon returning to the office, King called the telephone number that was populated on the Facebook page. King first reached a recording announcing the voicemail of “Ashley Boutout” with Keller Williams Realty. King called back and the call was answered by Suzanne McDowell. Later that day, King went back to the Brandon office location. King was greeted at the office by Ashley Boutout. King observed there were no wall licenses present at the office and inquired of Boutout of the location of the wall licenses and real estate transaction files. Boutout replied the licenses and files were at the Keller Williams office in Flowood.

#### V.

Chief Investigator King obtained a verbal statement from Boutout indicating that the McDowell office had been open for about a week and that Respondent McDowell had met with several clients at the new office. McDowell denied that she had ever met clients at the new office. Upon Commission inquiry of Keller Williams Responsible Broker Philip Landers as to the circumstances of the McDowell Team office, Landers then submitted application for the establishment of McDowell’s office as a branch office for Keller Williams Realty.

#### VI.

On or about June 15, 2017, the Commission obtained additional evidence of McDowell advertising the “McDowell Team” independently of her broker. The Commission obtained a

photograph which depicted a directional sign with the words “Home for Sale The McDowell Team 601-706-9833.” As of that date, there was no license issued by the Commission in that name and there was no information for a licensed broker displayed on the sign.

VII.

In response to Commission inquiry, Broker Philip Landers and Respondent McDowell stated that the subject directional signs had been misprinted by the printer and then distributed by McDowell’s daughter/assistant without McDowell having seen the signs. Landers and McDowell stated that all of the signs were removed promptly upon notification by the Commission. Respondent Landers did not inspect or approve of his agent McDowell’s signs before they were placed before the public.

CONCLUSIONS OF LAW

VIII.

The Commission finds the above and foregoing described acts and omissions of Respondent Suzanne Paige McDowell 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 and in relevant part:

§73-35-21(1)(d) Any misleading or untruthful advertising;

§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...

Rule 3.3A ...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.

Rule 3.3C ... A broker shall advertise in the name in which the license is issued...  
...If advertising in any other form, a partnership, trade name, association, company or corporation license must be obtained prior to advertising in that manner.

### DISCIPLINARY ORDER

Having issued its Findings of Fact and Conclusions of Law, and by agreement with Respondent Suzanne Paige McDowell, the Commission hereby issues its Disciplinary Order as follows:

1. Respondent Suzanne Paige McDowell, Salesperson, shall have her license suspended for a period of three (3) months. The three (3) month suspension will be held in abeyance. Respondent McDowell will be permitted to engage in the practice of a real estate salesperson during the period of suspension in abeyance insofar as she complies with the laws and regulations of the State of Mississippi, and with all other terms and conditions of this Agreed Order.
2. Following the period of suspension in abeyance, the salesperson's license of Respondent McDowell shall be on probation for a period of nine (9) months. Respondent McDowell will be permitted to engage in the practice of a real estate salesperson during the period of probation insofar as she complies with the laws and regulations of the State of Mississippi, and with all other terms and conditions of this Agreed Order.
3. Respondent McDowell shall, within the ninety (90) day period of suspension in abeyance, 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 these mandatory education hours shall be in addition to the continuing education hours required for renewal of her license. The courses shall be taken in a classroom setting and shall not be the same continuing education course from the same provider as any course previously completed for the renewal of Respondent

McDowell's license during the last two (2) renewal periods. Respondent shall furnish to the Commission written evidence of satisfactory completion of the required courses.

This the 19th day of July, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY: 

ROBERT E. PRAYTOR, Administrator

AGREED:

BY: 





**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 079-1711**

**BETTY A. MISKO, BROKER ASSOCIATE**

**RESPONDENT**

**AGREED ORDER**

COMES NOW before the Mississippi Real Estate Commission (sometimes hereinafter called "Commission"), pursuant to the authority of Miss. Code Ann. §§ 73-35-1, et seq., and the administrative rules of the Commission, this Complaint against Betty A. Misko, Broker Associate of RE/MAX RESULTS, a brokerage firm. Prior to any hearing before the Commission, the parties announced their agreement as to the resolution of the matters alleged and any disciplinary actions that may be imposed. By entering into this Agreed Order, Respondent, Betty A. Misko waives her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

## **I.**

Respondent, Betty A. Misko, Broker Associate (sometimes hereinafter called “Misko” or “Respondent”), is an adult resident citizen of Mississippi whose last known address of record with the Commission is 814 Canebrake Dr., Ocean Springs, MS 39564. Respondent Misko is the holder of a resident Broker license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, et seq., and, as such, she is subject to the provisions, rules, regulations and statutes governing real estate brokers under Miss. law and the administrative rules of the Mississippi Real Estate Commission.

## **II.**

On or about May 08, 2017, the Zanettis inquired of RE/MAX Real Estate Partners of Ocean Springs, MS to sell their home. They were put in touch with the Respondent, Misko, who met with the Zanettis the next day. During that initial meeting, Respondent Misko received confidential information relative to the selling posture of the Zanettis, both as to their floor selling price, with a needed net of \$ 82,500, and the relative urgency of a sale. Respondent Misko informed the Zanettis that their selling price would need to be \$ 87,900 to achieve their desired net amount. Misko also presented initial real estate forms, including a listing agreement, a WWREB form signed by both Misko, as agent for the Sellers, and the Zanettis, as Sellers, and a property condition disclosure form with accompanying informational page.

### **III.**

Armed with this critical knowledge of pricing and urgency of sale, Respondent Misko then conferred with the (subsequent) buyer representative and returned to the Zanetti's the next day with the revelation that not only had she found a buyer, not at the Zanettis' rock bottom price but at an amount just \$200 above the desired net amount, but that she had also decided to switch her allegiance to the buyer. Respondent Misko then took advantage of the sellers' naivety about such matters and induced them to change some of the initial real estate forms to reflect Misko's new position in this transaction, all with her stated intent to later enrich herself through the intended subsequent resale (flip) of the Zanettis' home by the buyer.

### **IV.**

Over the next several days, subsequent measures were taken to swiftly complete this sale. Respondent Misko contacted the closing attorney seeking to have the closing actions completed early and dated for a later date. Respondent Misko also misrepresented to the closing attorney, when asked about why no commission fee was showing on the closing documents, that her "buyer" client had obtained the home as a FSBO. This was also misrepresented to a former co-agent of Respondent Misko.

### **V.**

At the time of closing, the Zanettis were presented with a check in the balance of \$82,000. An earnest money deposit was required by this contract, but never tendered, and not collected by Misko. Additionally, upon the Respondent's principal broker subsequently learning of there being a question about this transaction, Respondent Misko was directed to provide her principal broker with the

documents regarding this transaction. Respondent Misko failed and initially refused to comply.

## **VI.**

Subsequent review of the transactional documents revealed that the PCDS is blank as to how the approximate square footage of the home was determined. Additionally, the lead-based paint disclosure form is missing required dates by some signatures. Additionally, the agency disclosure form (WWREB) between Respondent Misko of RE/MAX Real Estate Partners and the Zanettis showed that the Zanettis had put their signatures as clients dated 5/9/17 and the Client/Seller's Agent box had been checked but been modified to reflect they were now customers of RE/MAX and Misko.

## **VII.**

Upon receipt and review of the Complaint, the Respondent's response and supporting documents, as well as witness interviews, it was revealed that Misko had been engaged by the Zanettis for the marketing and sale of this property; that Misko then committed self-dealing by approaching a person whom she previously knew and entered into an arrangement that benefited the buyer and herself, to the detriment of the Zanettis.

## **FINDINGS AND CONCLUSIONS**

This Commission finds that Respondent Misko knowingly and willfully engaged to perform at least one transaction of real property in Mississippi without properly completing important and necessary forms, failed in her duties of loyalty, competency, and good faith dealing; failed to properly handle the earnest money, failed to keep her principal broker apprised of the transaction, and failed in her fiduciary duties, all as required by the MREC Administrative Rules and the Mississippi Real Estate Act of 1954, as amended; Title 73-35-1 et seq. Said conduct warrants serious sanctions being

imposed against Misko.

Further, the Commission finds that the above and foregoing described acts of the Respondent Betty A. Misko, Associate Broker, constitute a violation of M.C.A. § 73-35-21(a), (c), (e), (i), (k), and (n) and MREC Rules 3.1 F, 3.2 A, and 3.4 A which state, in relevant part:

**MREC Rule 3.1 F**

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.

**MREC Rule 3.2 A**

A real estate licensee shall immediately (at the time of signing) deliver a true and correct copy of any instrument to any party or parties executing the same.

**MREC Rule 3.4 Earnest Money**

*The responsible broker is responsible at all times for earnest money deposits. Earnest money accepted by the broker or any licensee for which the broker is responsible and upon acceptance of a mutually agreeable contract is required to deposit the money into a trust account prior to the close of business of the next banking day. The responsible broker is required to promptly account for and remit the full amount of the deposit or earnest money at the consummation or termination of transaction. A licensee is required to pay over to the responsible broker all deposits and earnest money immediately upon receipt thereof. Earnest money must be returned promptly when the purchaser is rightfully entitled to same allowing reasonable time for clearance of the earnest money check. In the event of uncertainty as to the proper disposition of earnest money, the broker may turn earnest money over to a court of law for disposition. Failure to comply with this regulation shall constitute grounds for revocation or suspension of license.*

**§ 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 full power to refuse a license for cause or to revoke or suspend a license where it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

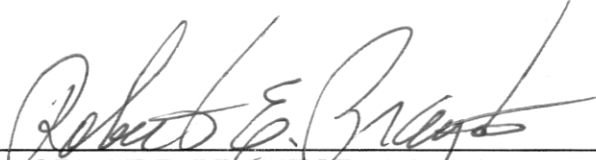
- (a) Making any substantial misrepresentation in connection with a real estate transaction;
- (c) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;
- (e) Acting for more than one (1) party in a transaction or receiving compensation from more than one (1) party in a transaction, or both, without the knowledge of all parties for whom he acts;
- (i) Failing to furnish voluntarily, at the time of signing, copies of all listings, contracts and agreements to all parties executing the same;
- (k) Inducing any party to a contract, sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract, where such substitution is motivated by the personal gain of the licensee;
- (n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing. However, simple contact and/or communication with any mortgage broker or lender by a real estate licensee about any professional, including, but not limited to, an appraiser, home inspector, contractor, and/or attorney regarding a listing and/or a prospective or pending contract for the lease, sale and/or purchase of real estate shall not constitute conduct in violation of this section.

### DISCIPLINARY ORDER

The Commission orders that the license of Betty Misko incur six (6) months of full suspension followed by an additional six (6) months of suspension, held in abeyance contingent upon Misko's future compliance with all Mississippi Real Estate statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract Law and 2 hours of License Law) during her full license suspension period. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, will be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of satisfactory completion of these classes is to be provided to this Commission.

This Order shall be effective on the date the Order is signed by the Commission. This Order shall be signed and dated by Respondent Misko and returned to the Commission within ten (10) working days or shall be withdrawn.

SO ORDERED this the 5<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
ROBERT E. PRAYTOR, Administrator  
MISS. REAL ESTATE COMMISSION

Acknowledged: Betty A. Misko Oliver Respondent Date: 5/30/18



**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**COMPLAINANT**

**VS.**

**No. 011-1803**

**RICHARD LYNN LEWIS, BROKER  
DIANA LYNN CUPPLES, SALESPERSON, and  
EHRIN NICOLE NEESE, 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. on a formal complaint brought against Respondents Richard Lynn Lewis, Broker, Diana Lynn Cupples, Salesperson, and Ehrin Nicole Neese, Salesperson. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondents. This agreement is for a suspension of each Respondent’s license in lieu of further disciplinary proceedings. By entering into this Agreed Order, all three Respondents waive his/her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:



## **I.**

Respondent Richard Lynn Lewis, Broker, sometimes hereinafter "Respondent" or "Lewis" is an adult resident citizen of MS whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, MS 38638. Respondent Lewis is the holder of a real estate broker's license issued by the Commission pursuant to Mississippi Code Ann. §73-35-1, et seq., as amended and, as such, he is subject to the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate brokers under Miss. law. At all relevant times, Respondent Lewis was the responsible broker for salespersons Diana Lynn Cupples and Ehrin Nicole Neese.

## **II.**

Respondent Diana Lynn Cupples, Salesperson, sometimes hereinafter "Respondent" or "Cupples" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Cupples 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 the provisions, rules, regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law.

## **III.**

Respondent Ehrin Nicole Neese, Salesperson, sometimes hereinafter "Respondent" or "Neese" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1761 Dancy Blvd., Horn Lake, Mississippi 38638. Respondent Neese 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 the provisions, rules,

regulations and statutes governing the sale, transfer and management of real estate and licensing of real estate salespersons under Mississippi law

#### IV.

On or about September 25, 2017, the Commission received a sworn complaint from Erik and Michelle Horne, sometimes hereinafter the "Hornes." The Hornes complained that they were the owners of rental property managed by Respondents through Allstar Management, LLC, sometimes hereinafter "Allstar," for whom Respondent Lewis is the responsible broker. Among other complaints, the Hornes complained that they lost a significant amount of rental income, and incurred unnecessary maintenance expenses, because of issues attendant to Respondents' management of the Hornes' property located at 4140 Amherst Drive, Olive Branch, Mississippi.

#### V.

On or about March, 2017, the Hornes were contacted by Respondent Nicole Neese, salesperson, informing them that the tenants in the Amherst Drive property wanted to renew their lease for another twelve (12) month term. These tenants had previously given their notice to vacate the property but now requested a renewal of the lease. The Hornes agreed to the lease renewal for a new twelve month term beginning March, 2017.

#### VI.

On or about July 19, 2017, the Hornes received an email communication from James Jones, an unlicensed employee with Allstar Management, informing them that "the tenants at 4140 Amherst Drive... have given proper 30 day notice. Their move out date will be 8/31/2017." The Hornes complained to Respondents that they were confused by this information, since they had approved the tenants' request for a renewal of the lease.

## VII.

The next day, July 20, Respondent Cupples then informed the Hornes that the tenants had signed the lease extension form but had returned it by cellphone picture to Respondent Nicole Neese. Neese had informed the tenants to resubmit the signed extension, but it was never received. Respondents admitted that the extension had not been documented in the property management system. Thereafter, when the tenants gave notice to vacate the property, Respondents' unlicensed staff recorded the notice as having been properly given. Respondents did not follow up with the tenants to make sure the original signed extension was received or that the extension of the lease was properly documented in the files. In her July 20 correspondence to the Hornes, Respondent Cupples stated that, as far as she was concerned, the tenants had signed the extension/renewal and were therefore bound to the extended lease term. Cupples informed the Hornes she would have "James [Jones] contact [the tenants] to notify them" that they would be in breach of the lease if they vacated the property early. James Jones is an unlicensed employee of Respondents' property management company.

Thereafter, the Hornes communicated with Respondents in efforts to determine the status of the lease matter. The Hornes were informed that the Broker, Respondent Richard "Ricky" Lewis, would be consulted but the Hornes complained that they never heard from Lewis. The tenants did not pay rent for August and the Hornes were informed on August 11, 2017 that the tenants had made a promise to pay.

### VIII.

The Hornes contacted the Respondents again on August 16 to find out if the rent had been paid and to inquire again about the status of the renewal matter as they were concerned that there was not an original executed lease on file. Respondents were notified the next day, August 17, by Chris Napper that suit had been filed in Justice Court against the tenants with a September 5 court date. Napper explained that they would continue "to try our best in collecting the rent and will keep you updated." Chris Napper is also an unlicensed employee of the property management company. The Hornes responded that same day and inquired whether anyone had physically inspected the residence to determine whether the tenants were still occupying the property. Over a week later, on or about August 25, the Hornes were informed by Lisa Stewart, also an unlicensed employee, that the tenants had, in fact, vacated the property and not paid rent. Stewart reminded the Hornes that the matter of the unpaid rent was pending in court. Stewart stated that "[o]verall, the property did not appear to be in bad shape, but will need a good cleaning, carpet cleaning, fresh coat of paint on the walls, and some yard maintenance. "

### IX.

The Hornes complained that they physically inspected the property only five (5) days later and claimed they discovered that the house "WAS in bad shape." The Hornes complained that there were shingles visibly missing from the roof, causing a water leak with visible water stains and mold in the garage, damaged walls, and missing fixtures and drain pipes from the home. The Hornes complained that Respondents' property management firm had agreed to inspect the property every three (3) months while changing out air conditioning filters and that the damage would have been apparent during the last recorded filter change in July, 2017.

## **X.**

The Hornes complained that they asked for a copy of the property management agreement for their property and were given a copy of the agreement that they signed in March, 2015 but which expired in February, 2016. The Hornes were never given nor asked to sign a new management agreement after that time. During the Commission investigation, a copy of the subject management agreement was obtained and it was not signed by Respondent Lewis or an agent of Respondents' property management firm, Allstar Management.

## **XI.**

The above and foregoing acts and omissions of Respondents 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, §73-35-3, §73-35-21(1) and Commission Rules 3.1A, 3.1B, and 4.2G(5), 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 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.

§73-35-3(1) The term "real estate broker"... shall include all persons... who... lease, manage, any real estate, or the improvements thereon,... or who negotiate or attempt to negotiate such activity...

§73-35-3(4) The term "real estate salesperson" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in subsection (1) of this section, for compensation or otherwise.

§73-35-21 (1) The commission may, upon its own motion and shall upon the verified complaint in writing of any person, hold a hearing for... the suspension or revocation of a license... or for such other action as the commission deems appropriate. The commission shall have full power 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:

(a) Making any substantial misrepresentation in connection with a real estate transaction.

(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 3.1 A It shall be the duty of the responsible broker to instruct the licensees 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 3.1 B 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 action 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.

Rule 4.2 G "Fiduciary duties" 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**

THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

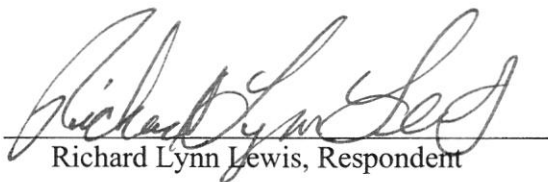
As to each Respondent individually, the Commission orders that his/her license incur a 6 (six) month suspension period, with one month to serve and five (5) of those months of suspension held in abeyance, pending successful completion of probation. The 1 month of suspension will be immediately followed by six (6) months of probation that will be contingent upon both future compliance by each Respondent with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon each Respondent completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during that 1 month of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him/her for license renewal and will not be the same classes from the same provider as those used by these Respondents in their individual last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Lewis's suspension will start Dec. 01, 2018 and will be immediately followed by the six (6) month probation period. Respondent Cupples and Neese's suspension periods will immediately follow, in whichever order they choose, to be followed by their respective 6 month probation period.

SO FOUND AND ORDERED this the 15<sup>th</sup> day of NOVEMBER, 2018.



MISSISSIPPI REAL ESTATE COMMISSION

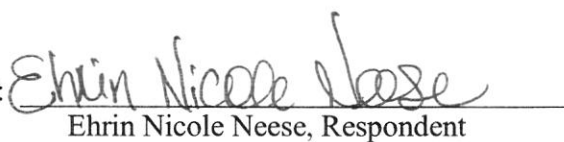
  
ROBERT E. PRAYTOR, Administrator

Agreed:   
Richard Lynn Lewis, Respondent

Date: 10/8/18

Agreed:   
Diana Lynn Cupples, Respondent

Date: 11/8/18

Agreed:   
Ehrin Nicole Neese, Respondent

Date: 11/12/18





# Mississippi Real Estate Commission

ADMINISTRATOR  
ROBERT E. PRAYTOR

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## OFFICIAL LETTER OF REPRIMAND

October 17, 2018

Re: MREC case # 35-1807

MREC v. Dee Kaye Salvas, Principal Broker & Eileen McCool Wilson, Salesperson

Dear Dee Kaye Salvas:

The Mississippi Real Estate Commission has concluded its investigation in the above referenced case. The Legal Counsel and the Investigative Staff of the Real Estate Commission believe the information obtained during the investigation of this complaint is sufficient to show you in violation of Rule 3.1 of the Mississippi Real Estate Commission Rules and Regulations. In this case, the WWREB form for the Gibson's as buyer is checked for "disclosed dual agent" but is not checked as to this being for the buyer or seller. Further, the dual agency form for Gibson has no date for the offer to purchase nor is the seller's signature dated. These omissions by your agent fall under your obligation to supervise agent activities for correctness/compliance with MS law and MREC rules.

### **Part 1601 Chapter 3: Administration/Conducting Business**

#### **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.**

### **Part 1601 Chapter 4: Agency Relationship Disclosure**

#### **Rule 4.1 Purpose**

Consumers shall be fully informed of the agency relationships in real estate transactions identified in Miss. Code Ann. §§ 73-35-3. This rule places specific requirements on Brokers to disclose their agency relationship. This does not abrogate the laws of agency as recognized under common law and compliance with the prescribed disclosures will not always guarantee that a Broker has fulfilled all of his responsibilities under the common law of agency. Compliance will be necessary

in order to protect licensees from impositions of sanctions against their license by the Mississippi Real Estate Commission. Special situations, where unusual facts exist or where one or more parties involved are especially vulnerable, could require additional disclosures not contemplated by this rule. In such cases, Brokers should seek legal advice prior to entering into an agency relationship.

#### **Rule 4.2 Definitions**

A. "Agency" shall mean the relationship created when one person, the Principal (client), delegates to another, the agent, the right to act on his behalf in a real estate transaction and to exercise some degree of discretion while so acting. Agency may be entered into by expressed agreement, implied through the actions of the agent and or ratified after the fact by the principal accepting the benefits of an agent's previously unauthorized act. An agency gives rise to a fiduciary relationship and imposes on the agent, as the fiduciary of the principal, certain duties, obligations, and high standards of good faith and loyalty.

B. "Agent" shall mean one who is authorized to act on behalf of and represent another. A real estate broker is the agent of the principal (client) to whom a fiduciary obligation is owed. Salespersons licensed under the broker are subagents of the Broker, regardless of the location of the office in which the salesperson works.

C. "Client" shall mean the person to whom the agent owes a fiduciary duty. It can be a seller, buyer, landlord, tenant or both.

F. "Disclosed Dual Agent" shall mean that agent representing both parties to a real estate transaction with the informed consent of both parties, with written understanding of specific duties and representation to be afforded each party. There may be situations where disclosed dual agency presents conflicts of interest that cannot be resolved without breach of duty to one party or another. Brokers who practice disclosed dual agency should do so with the utmost caution to protect consumers and themselves from inadvertent violation of demanding common law standards of disclosed dual agency.

This Official Letter of Reprimand will be placed in your file to become a part of your permanent record. You should take every precaution to familiarize yourself with the Real Estate Brokers License Act of 1954, as Amended, and the Administrative Rules and Regulations of the Real Estate Commission in order to avoid a serious violation which might affect the status of your license.

If you have any questions pertaining to this matter, please contact the Commission.



**Robert E. Praytor**

Administrator  
Mississippi Real Estate Commission



# Mississippi Real Estate Commission

ADMINISTRATOR  
ROBERT E. PRAYTOR

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January 26, 2018

## OFFICIAL LETTER OF REPRIMAND

Brenda Price Spiers, Salesperson  
Century 21 Maselle & Associates  
1378 W. Government Street, Suite D  
Brandon, MS 39042

**RE: MREC Case #067-1709**  
**MREC v Douglas W. Maselle, Principal Broker**  
**Monique DeJean Maselle, Salesperson**  
**Brenda Price Spiers, Salesperson**

Dear Ms. Spiers:

The Mississippi Real Estate Commission has concluded its investigation in the matter of the above referenced case.

The Legal Counsel and the Investigative Staff of the Real Estate Commission believes that the information obtained during the investigation of this complaint is sufficient to show that you were in violation of **Rule 4.2 (F)** of the Mississippi Code.

Rule 4.3 (F) states:

*"Disclosed Dual Agent shall mean that agent representing both parties to a real estate transaction with the informed consent of both parties, with written understanding of specific duties and representation to be afforded each party. There may be situations where disclosed dual agency presents conflicts of interest that cannot be resolved without breach of duty to one party or another. Brokers who practice disclosed dual agency should do so with the utmost caution to protect consumers and themselves from inadvertent violation of demanding common law standards of disclosed dual agency."*

This Official Letter of Reprimand will be placed in your file to become a part of your permanent record. You should take every precaution to familiarize yourself with the Real Estate Brokers License Act of 1954, as Amended, and the Administrative Rules and Regulations of the Real Estate Commission so that you might avoid a serious violation which could negatively impact the status of your license.



MISSISSIPPI

**Robert E. Praytor**  
Administrator  
Mississippi Real Estate Commission

**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 044-1808**

**SANDRA M. THOMPSON, BROKER**

**RESPONDENT**

**AGREED ORDER**

COMES NOW before the Mississippi Real Estate Commission (sometimes hereinafter called "Commission"), pursuant to the authority of Miss. Code Ann. §§ 73-35-1, et seq., and the administrative rules of the Commission, this Complaint against Sandra M. Thompson, Broker. Prior to any hearing before the Commission, the parties announced their agreement as to the resolution of the matters alleged and any disciplinary actions that may be imposed. By entering into this Agreed Order, Respondent Sandra M. Thompson waives her right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

## **I.**

Respondent, Sandra M. Thompson (sometimes hereinafter called “Thompson” or “Respondent”), is an adult resident citizen of Mississippi whose last known address of record with the Commission is 6246 Mossline Rd., Jackson, MS 39211. Respondent Thompson is the holder of a resident Broker license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, et seq., and, as such, she is subject to the provisions, rules, regulations and statutes governing real estate brokers under Miss. law and the administrative rules of the Mississippi Real Estate Commission. Respondent Thompson is the Principal Broker of The Gralexx Group, LLC in Jackson, MS.

## **II.**

In April of 2018, the Complainants, Curley and Peggy Champion, represented by Lisa Bourgoyne of Re/Max Alliance, received an offer for their property from Investment Group LLC, which is owned by members John Smith and the Respondent. The offer was conveyed only by one co-owner, John Smith and was accepted. Consequently, earnest money of \$1000 was deposited with the Respondent’s brokerage firm, The Gralexx Group, LLC, as representing the buyer, Investment Group, LLC. Complainants stated that they were not told that Respondent Thompson co-owned Investment Group, LLC that made the purchase offer. Additionally, Respondent did not reveal on the offer or contract for sale that she was a co-owner of Investment Group, LLC. Respondent only signed documents as the buyer’s agent.

## **III.**

Upon opening an investigation, Respondent Thompson did respond with supporting documents for this transaction. Review of the Respondent’s response and supporting documents revealed that neither the offer, the subsequent contract, or any of the three addendums between the Complainants and Investment Group, LLC revealed Thompson as being a co-owner of this LLC.

#### **IV.**

In the last addendum, a deadline of July 13, 2018 for closing was agreed. The closing did not occur. That same day, a release of Contract form was signed by the Complainants and their agent and sent to Respondent Thompson. That form shows that Respondent Thompson signed this release the next day, July 14<sup>th</sup>, yet said form did not get back to the Complainant's agent until three weeks later, being September 07, 2018. Respondent Thompson did not deliver the earnest money back to the Complainant's agent until September 19, 2018, by then some two months after Respondent Thompson had signed the Release of Contract form, and about two weeks after Respondent Thompson would have received the formal complaint of this action. That refund check was dated September 04, 2018.

#### **V.**

The Commission alleges that Respondent Thompson knowingly and willfully engaged to perform at least one transaction of real property in Mississippi without revealing her ownership interest in the company making an offer to buy, nor did she promptly return the Complainant's earnest money, as required by the MREC Rules and the Mississippi Real Estate Act of 1954, as amended; §73-35-1 et seq. Said conduct warrants sanctions being imposed against Thompson.

#### **VI.**

The above and foregoing described acts of the Respondent Sandra M. Thompson constitute a violation of M.C.A. § 73-35-21 and MREC Rules 3.3D and 3.4A which state, in relevant part:

### **Rule 3.3 Advertising**

D. When a licensee is advertising their own property for sale, purchase or exchange which is not listed with a broker, the licensee must indicate that he or she is licensed. The disclosure of licensee's status must be made in all forms of advertising enumerated in Rule 3.3 (A), including the "for sale" sign.

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.

### **Rule 3.4 Earnest Money**

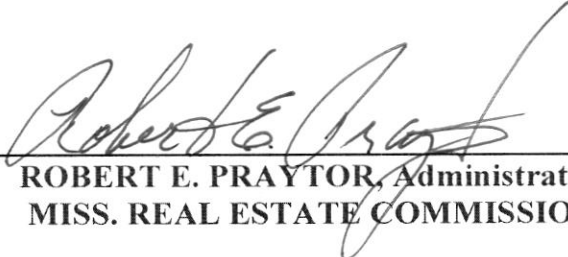
A. The responsible broker is responsible at all times for earnest money deposits. Earnest money accepted by the broker or any licensee for which the broker is responsible and upon acceptance of a mutually agreeable contract is required to deposit the money into a trust account prior to the close of business of the next banking day. The responsible broker is required to promptly account for and remit the full amount of the deposit or earnest money at the consummation or termination of transaction. A licensee is required to pay over to the responsible broker all deposits and earnest money immediately upon receipt thereof. Earnest money must be returned promptly when the purchaser is rightfully entitled to same allowing reasonable time for clearance of the earnest money check. In the event of uncertainty as to the proper disposition of earnest money, the broker may turn earnest money over to a court of law for disposition. *Failure to comply with this regulation shall constitute grounds for revocation or suspension of license.*

### DISCIPLINARY ORDER

The Commission orders that the license of Sandra M. Thompson incur thirty (30) days of suspension, held in abeyance, followed by 11 months of probation, and all contingent upon Thompson's future compliance with all Mississippi Real Estate statutes and Commission Rules and also contingent upon her completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract Law and 2 hours of License Law) during her 30 days of license suspension being held in abeyance. Said education is to be completed in a classroom environment, rather than through Distance Education. Further, these classes will be courses approved by this Commission, will be in addition to the regular hours of continuing education already required of licensees for license renewal and will not be the same classes from the same provider as those used by this Respondent in the last renewal period. Evidence of completion of these classes is to be provided to this Commission. Thompson's suspension, in abeyance, will start immediately upon the signing of this order.

SO ORDERED this the 16<sup>th</sup> day of NOVEMBER, 2018.



  
ROBERT E. PRAYTOR, Administrator  
MISS. REAL ESTATE COMMISSION

AGREED: , Respondent  
Sandra M. Thompson, Broker



**IN THE STATE OF MISSISSIPPI  
BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**MISSISSIPPI REAL ESTATE COMMISSION**

**vs.**

**NO. 014-1803**

**ERNEST ALFRED BUHRER, BROKER  
MICHAEL A. WEBB, 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. on a formal complaint brought against Respondents Ernest Alfred Buhrer, Broker and Michael A. Webb, Salesperson. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondent, Ernest Alfred Buhrer, Broker. This agreement is to the suspension of Respondent Buhrer's license in lieu of further disciplinary proceedings. By entering into this Agreed Order, Respondent Ernest Alfred Buhrer waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues its Findings of Fact, Conclusions, and Disciplinary Order as follows:

## I.

Respondent, Ernest Alfred Buhner (hereinafter called "Buhner" or "Respondent"), is an adult resident citizen of Mississippi whose last known address of record is 201 Mayson Ave., Columbia, MS 39429. Respondent Buhner holds 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 administrative rules of this Commission.

Respondent, Michael A. Webb, (sometimes hereinafter called "Webb" or "Respondent"), is an adult resident citizen of MS whose last known address of record is 1610 Ridgewood Dr., Columbia, MS 39429. Respondent Webb holds a sales 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 Miss. law and the administrative rules of the MS Real Estate Commission. Respondent Buhner is the Principal Broker over salesperson, Michael Webb.

## II.

In March of 2018, the Commission received an anonymous mailing that consisted of a color photograph depicting a real estate property sign posted on property for sale in the Columbia, MS area. This signage displayed the names of the Respondents as Micky Webb, Agent with Fred Buhner Real Estate. Without any explanation included, the Commission staff then investigated who these licensees were and why this picture might matter. This cursory examination revealed that since July of 2015, Respondent Webb 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 Webb by the Commission by letter on August 4, 2015. On July 24, 2016, the Commission received Respondent's signed license renewal application form; said form clearly showing his license in inactive status.

### **III.**

Notwithstanding Respondent Webb's license status, Respondent Webb continued to market and did market multiple properties and engage in other licensable activities. Respondent Buhrer, Principal Broker, signed documents involved in at least some of these transactions and so had direct knowledge of the activities of his salesperson, Respondent Michael Webb. Agency law of Mississippi inputs this knowledge to Respondent Buhrer, as well. Additionally, some of these transactional documents are lacking in material terms, such as the selling prices in listing agreements and no informational statement for the property condition disclosure statement.

### **IV.**

As a result of this discovery, Respondent' Buhrer's online website was viewed, both as a means of confirming Respondent Webb's relationship held out to the public by Respondent Buhrer, and for contact information as to Buhrer. It was then discovered that Buhrer had 3 other persons listed as agents on his website that were not now and had not been agents with Respondent Buhrer for two years or more. Additionally, Respondent Webb's name was not shown on this website.

## FINDINGS AND CONCLUSIONS

This Commission finds that Respondent Buhrer knowingly and willfully knew and allowed salesperson Michael Webb to perform licensable activities of real property during a time when Webb's real estate license was on inactive status. Further, the Commission finds that Respondent Buhrer publicly advertised salespersons who were not licensed under him as Principal Broker. Said conduct evidences a careless or reckless indifference and demeanor toward the Commission Rules and warrants severe sanctions being imposed against Respondent Buhrer.

This Commission further finds that the above and foregoing described acts of the Respondent Ernest Alfred Buhrer constitute violations of Miss. Code Ann. §73-35-1, et seq. and MREC Administrative Rules, in particular:

**Miss. Code Ann. §73-35-1:** cited, as "the Real Estate Brokers License Law of 1954"; 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 3.2 Documents**

B. All exclusive listing agreements shall be in writing, properly identify the property to be sold, and contain all of the terms and conditions under which the transaction is to be consummated; including the sales price, the considerations to be paid, the signatures of all parties to the agreement, and a definite date of expiration. No listing agreement shall contain any provision requiring the listing party to notify the broker of their intention to cancel the listing after such definite expiration date. An "Exclusive Agency" listing or "Exclusive Right to Sell" listing shall clearly indicate in the listing agreement that it is such an agreement.

### **Rule 3.3 Advertising**

A. The use of any copyrighted term or insignia on stationery, office signs, or in advertising by any licensee not authorized to do so, will be considered as "substantial misrepresentation" and cause for refusal, suspension, or revocation of the license.

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.

### DISCIPLINARY ORDER

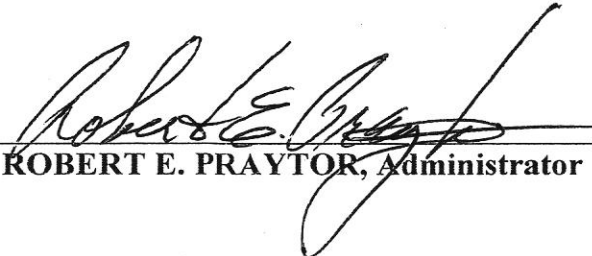
THEREFORE, by agreement, understanding and consent, the Commission **ORDERS** discipline as follows:

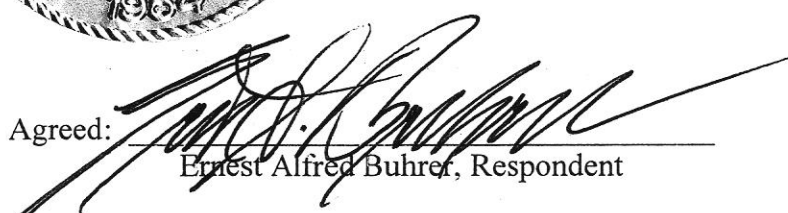
As to Ernest Alfred Buhrer, Principal Broker, the Commission orders that his license incur a six (6) month suspension period and be immediately followed by six (6) months of probation; contingent upon both his future compliance with all Mississippi Real Estate Statutes and Commission Rules and also contingent upon him completing eight (8) hours of Mandatory Continuing Education (4 hours of Agency, 2 hours of Contract law and 2 hours of License Law) during those six months of suspension. Said education is to be completed in a classroom environment, rather than through on-line education. Further, these classes will be courses approved by this Commission, be in addition to any regular hours of continuing education that may be required of him for license renewal and will not be the same classes from the same provider as those used by this Respondent in his last renewal period. Evidence of completion of these classes is to be provided to this Commission. Respondent Buhrer's full suspension will start Sept. 01, 2018 and will be immediately followed by the six (6) month probation period.

SO FOUND AND ORDERED this the 9<sup>th</sup> day of August, 2018.



MISSISSIPPI REAL ESTATE COMMISSION

  
ROBERT E. PRAYTOR, Administrator

Agreed:   
Ernest Alfred Buhrer, Respondent

Date: 08/07/2018

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 04-1801

KENNETH R. WEST, BROKER;

RESPONDENT

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 Kenneth R. West, Broker. Prior to this matter being set for hearing before the Commission, the parties announced their agreement as to disciplinary action. By entering into this Agreed Order, Respondent Kenneth R. West waives his right to a hearing with full due process and the right to appeal any adverse decision resulting 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 Kenneth R. West, Broker, sometimes hereinafter “Respondent” or “West” is an adult resident citizen of Mississippi whose last known address of record with the Commission is 110 S. 10<sup>th</sup> Ave., Hattiesburg, Mississippi 39401. Respondent West 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.

## II.

On or about January 30, 2018, the Commission received a sworn complaint from Rickey A. Shows, sometimes hereinafter “Shows.” Shows complained that he had purchased a home located at 218 Ford Dr., Petal, Mississippi 39465. The seller was Mrs. Sarphie through her son Jeff Sarphie with her Power of Attorney, sometimes hereinafter, collectively, “Sarphie.” Sarphie listed the property with Respondent Kenneth West.

## III.

Shows complained that shortly after closing on the property and taking possession, he was informed by an acquaintance employed by Five Star Foundation Repair that Respondent West had ordered and received an estimate to repair the foundation of the property which was not disclosed to Shows before he purchased the property. Shows complained that the estimate to repair the foundation was \$17,500.00. Shows complained that he had viewed the property with West prior to the purchase and had inquired about an area of the floor that did not appear level. Shows claimed Respondent West told him it was “nothing.”

## IV.

Shows complained that, after purchasing the property, he learned that there were significant plumbing issues in that only two of the seven or eight heaters were actually plumbed for gas service. Shows claimed he had not been given notice of the plumbing issue prior to purchase of the property.



## V.

Upon receipt of Shows' sworn complaint, the Commission initiated an investigation. Respondent West provided a response to Shows' complaint. West claimed he had never shown the property to Shows and that Shows had actually viewed the property with Jeff Sarphie.

## VI.

During the Commission investigation, a copy of the Property Condition Disclosure Statement ("PCDS") was obtained for review. Shows claimed that he had personally witnessed Respondent West complete the PCDS and that West then attached a signature page that contained Jeff Sarphie's signature. In his written response provided to the Commission, Respondent West denied that he had completed the PCDS and claimed he had received the PCDS from Sarphie. The PCDS, dated as signed June 5, 2017, was incomplete and/or inaccurate in numerous areas.

## VII.

Respondent West admitted to the Commission that he had obtained the foundation repair estimate from Five Star Foundation and that he did not disclose the existence of the report to Shows. That foundation report/estimate was dated June 22, 2017, after the date of completion of the PCDS but the PCDS was not amended thereafter. Upon inquiry from the Commission Investigator, Jeff Sarphie claimed that Respondent West had not informed him of any necessity to amend the PCDS, which with respect to issues with the property foundation, reflected "unknown."

## VIII.

The section of the PCDS related to plumbing was left completely blank. Upon inquiry of Sarphie, the Commission Investigator was informed that Sarphie had no knowledge of the plumbing issue until Shows reported it after closing. However, Sarphie admitted that he had engaged a plumber in the past to fix a problem with a heater reported by his mother who was living in the house. During the Commission investigation, a statement was received from Julius Tisdale of Tisdale Plumbing reflecting that Tisdale had installed a heater and discovered the plumbing problem related to the other gas heaters in or about fall of 2017. Tisdale stated that he never returned to make the plumbing repairs as he was not interested in completing the job.

## IX.

Documents obtained during the Commission investigation reflect that the seller, Sarphie, had knowledge of both foundation and plumbing issues at least by the time the PCDS was presented to the buyer, Shows, which PCDS was never amended. Likewise, Respondent West had knowledge of a substantial foundation issue, by his own admission, which was not reflected on the PCDS nor otherwise disclosed to Shows.

## X.

In a response to the Commission inquiry, Respondent West claimed that he had suggested that Shows have his own inspection of the foundation conducted and that he had disclosed foundation issues on both a Multiple Listing Service (“MLS”) record and in a Craigslist advertisement for the property. Shows stated that he had never seen the referenced MLS record nor the Craigslist advertisement. Respondent West had a duty to

Shows, as buyer, of honesty and fair dealing in the transaction and the duty to disclose all facts known to West materially affecting the value of the subject property.

## XI.

### CONCLUSIONS OF LAW

The above and foregoing acts and omissions of Respondent constitute violations of Mississippi's statutory Real Estate Transfer Disclosure Requirements, Miss. Code Ann. §§89-1-501, *et seq.*, and the Mississippi Real Estate Brokers License Act of 1954, as amended, Miss. Code Ann. §§73-35-1, *et seq.*, and, more specifically, Miss. Code Ann., §89-1-501, §89-1-505, §89-1-511, §89-1-513, and §73-35-21(1)(a) and (n), which provide, in relevant parts:

#### **§89-1-501 Applicability of real estate transfer disclosure requirement provisions**

(1) The provisions of Sections 89-1-501 through 89-1-523 apply... to transfers by sale, exchange, installment land sale contract... of real property on which a dwelling unit is located... when the execution of such transfers is by, or with the aid of, a duly licensed real estate broker or salesperson.

#### **§89-1-505 Limits on duties and liabilities with respect to information required or delivered**

(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 that transferor or that listing or selling agent...

#### **§89-1-511 Disclosures to be made in good faith**

Each disclosure required by Sections 89-1-501 through 89-1-523 and each act which may be performed in making the disclosure, shall be made in good faith. For purposes of Sections 89-1-501 through 89-1-523, "good faith" means honesty in fact in the conduct of the transaction.

**§89-1-513 Provisions not exhaustive of items to be disclosed**

The specification of items for disclosure in Sections 89-1-501 through 89-1-523 does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation or deceit in the transfer transaction.

**§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 it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(a) Making any substantial misrepresentation in connection with a real estate transaction;

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(n) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing...

**DISCIPLINARY ORDER**

Upon agreement and consent of Respondent Kenneth R. West as to disciplinary terms and disposition of the matter in lieu of a hearing before the Commission and, having issued its Findings of Fact and Conclusions of Law, the Commission issues its Disciplinary Order as follows:

1. The license of Respondent Kenneth R. West will be suspended for a period of thirty (30) days; and

2. Following the period of suspension, Respondent's license will be placed on probation for a period of eleven (11) months; and
3. Within ninety (90) days of the effective date of this Agreed Order, 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 must be administered by a Commission approved continuing education provider. The mandatory continuing education hours shall be in addition to any continuing education hours required for renewal of Respondent's license and shall not be the same continuing education course from the same provider previously completed for the renewal of Respondent's license during the last two (2) renewal periods. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.
4. This Agreed Order shall be effective November 15, 2018.

THIS the 15<sup>th</sup> day of November, 2018.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED:

Kenneth R. West DATE 11-14-18  
KENNETH R. WEST





# Mississippi Real Estate Commission

ADMINISTRATOR  
ROBERT E. PRAYTOR

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## OFFICIAL LETTER OF REPRIMAND

October 17, 2018

Re: MREC case # 35-1807

MREC v. Dee Kaye Salvas, Principal Broker & Eileen McCool Wilson, Salesperson

Dear Eileen Wilson:

The Mississippi Real Estate Commission has concluded its investigation in the matter of the above referenced case. The Legal Counsel and the Investigative Staff of the Real Estate Commission believe that the information obtained during the investigation of this complaint is sufficient to show that you are in violation of Rule 4 of the Mississippi Real Estate Commission Rules and Regulations. The WWREB form for the Gibson's as buyer is checked for "disclosed dual agent" but is not checked as to this being for the buyer or seller. Further, the dual agency form for Gibson has no date for the offer to purchase nor is the seller's signature dated.

### **Part 1601 Chapter 4: Agency Relationship Disclosure**

#### **Rule 4.1 Purpose**

Consumers shall be fully informed of the agency relationships in real estate transactions identified in Miss. Code Ann. §§ 73-35-3. This rule places specific requirements on Brokers to disclose their agency relationship. This does not abrogate the laws of agency as recognized under common law and compliance with the prescribed disclosures will not always guarantee that a Broker has fulfilled all of his responsibilities under the common law of agency. Compliance will be necessary in order to protect licensees from impositions of sanctions against their license by the Mississippi Real Estate Commission. Special situations, where unusual facts exist or where one or more parties involved are especially vulnerable, could require additional disclosures not contemplated by this rule. In such cases, Brokers should seek legal advice prior to entering into an agency relationship.

## Rule 4.2 Definitions

A. "Agency" shall mean the relationship created when one person, the Principal (client), delegates to another, the agent, the right to act on his behalf in a real estate transaction and to exercise some degree of discretion while so acting. Agency may be entered into by expressed agreement, implied through the actions of the agent and or ratified after the fact by the principal accepting the benefits of an agent's previously unauthorized act. An agency gives rise to a fiduciary relationship and imposes on the agent, as the fiduciary of the principal, certain duties, obligations, and high standards of good faith and loyalty.

B. "Agent" shall mean one who is authorized to act on behalf of and represent another. A real estate broker is the agent of the principal (client) to whom a fiduciary obligation is owed. Salespersons licensed under the broker are subagents of the Broker, regardless of the location of the office in which the salesperson works.

C. "Client" shall mean the person to whom the agent owes a fiduciary duty. It can be a seller, buyer, landlord, tenant or both.

.....

F. "Disclosed Dual Agent" shall mean that agent representing both parties to a real estate transaction with the informed consent of both parties, with written understanding of specific duties and representation to be afforded each party. There may be situations where disclosed dual agency presents conflicts of interest that cannot be resolved without breach of duty to one party or another. Brokers who practice disclosed dual agency should do so with the utmost caution to protect consumers and themselves from inadvertent violation of demanding common law standards of disclosed dual agency.

This Official Letter of Reprimand will be placed in your file to become a part of your permanent record. You should take every precaution to familiarize yourself with the Real Estate Brokers License Act of 1954, as Amended, and the Administrative Rules and Regulations of the Real Estate Commission in order to avoid a serious violation which might affect the status of your license.

If you have any questions pertaining to this matter, please contact the Commission.



**Robert E. Praytor**

Administrator  
Mississippi Real Estate Commission