

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 71-1811

CAROLYN M. CATCHOT, PRINCIPAL BROKER;
MICHELLE CATCHOT FILIPICH, BROKER ASSOCIATE; and
ANNETTE P. TERRY, 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 Carolyn M. Catchot, Broker, Michelle Catchot Filipich, Broker Associate, and Annette P. Terry, Salesperson. Prior to hearing before the Commission, the parties announced their respective agreements as to the allegations of the Commission Complaint and disciplinary actions for Respondents, all as set forth herein. By entering into this Agreed Order, Respondents waive their rights to a hearing with full due process and the rights to appeal any adverse decisions which may have resulted from that hearing. Having reached individual agreements on this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Respondent Carolyn M. Catchot, Broker, sometimes hereinafter "Respondent" or "Catchot" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 221 Rue Petit Bois, Biloxi, Mississippi 39531. Respondent Catchot is the holder

of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, she is subject to all of the provisions, rules, regulations and statutes governing the management, sale and transfer of real estate and licensing of real estate brokers under Mississippi law. At all relevant times to this Complaint, Respondent Catchot was the Principal Broker for both Century 21 Bay South Realty, Inc. and Bay South Property Management, LLC as well as for Broker Associate Michelle Catchot Filipich and Salesperson Annette P. Terry.

II.

Respondent Michelle Catchot Filipich, Broker Associate, sometimes hereinafter "Respondent" or "Filipich," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 221 Rue Petit Bois, Biloxi, Mississippi 39531. Respondent Filipich is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, she is subject to all of the provisions, rules, regulations and statutes governing the management, sale and transfer of real estate and licensing of real estate brokers under Mississippi law.

III.

Respondent Annette P. Terry, Salesperson, sometimes hereinafter "Respondent" or "Terry," is an adult resident citizen of Mississippi whose last known address of record with the Commission is 221 Rue Petit Bois, Biloxi, Mississippi 39531. Respondent Terry 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 management, sale and transfer of real estate and licensing of real estate salespersons under Mississippi law.

IV.

On or about November 5, 2018, the Commission received a sworn statement of complaint from Cassandra Scott, sometimes hereinafter "Scott." Scott complained she owned a property located at 13218 Tyler Lane, Gulfport, Mississippi that had been both listed for sale and managed as a rental property by Respondents beginning on or about February, 2017.

V.

Among other complaints, Scott complained that she was dissatisfied with Respondents' efforts to sell the property which was a primary concern for Scott who was then stationed in California and was attempting to purchase a home in that state. Scott alleged that Respondents had ultimately secured a tenant for the property but that Scott still desired to sell the property. Scott complained that she informed Respondents she did not wish to continue the listing with Respondents' brokerage, but Respondents extended the listing anyway, without her permission. Ultimately, Respondent Catchot convinced Scott to extend the listing and for the substitution of Respondent Filipich for Respondent Terry as the listing agent, which listing extension was to run through June 30, 2018.

VI.

On or about June 27, 2018, the lease for the occupying tenant expired and Scott informed Respondents she did not want to renew the lease or to continue to rent the property. During the Commission investigation, documents and information were obtained reflecting that Respondent Filipich claimed to have received verbal permission to extend the listing agreement for the sale of the property through December 31, 2018 but which extension was signed only by Respondent Filipich. On or about September 15, 2018, Scott informed Filipich she would have to return to Mississippi to live in her property and for Filipich to remove/cancel the listing. Filipich claimed

she had gone through the process of removing the listing from MLS but failed to complete the process and the listing was not in fact removed at that time.

VII.

When the tenants' lease expired, the tenants vacated the property and the property was cleaned with the cost for cleaning deducted from the security deposit, the remainder of which was returned to the tenants. On or about October 12, 2018, Scott contacted Catchot and Filipich and complained about the condition of the property upon her inspection of same. Scott lodged numerous complaints about the condition in which she claimed the tenants had left the property and questioned why the tenants were refunded the remainder of the security deposit by Respondents. Among other items, Scott was particularly concerned about the condition of the carpet in the home. Scott supplied photographs of the carpet to Respondents and claimed they showed stains. In a response received by the Commission, Respondent Catchot claimed that Respondent Terry had inspected the property when the tenants had vacated and observed no defects beyond normal wear and tear. Catchot claimed that Respondents Filipich and Terry had inspected the property and there were signs of wear and darkening of the carpet in high traffic areas. Catchot responded that the photographs submitted by Scott had been taken with the lights off and blinds closed making it difficult to tell if the photographs of the carpet reflected an "actual stain" or "shadows." In a response to the Commission submitted by Respondent Terry, Terry claimed that when Respondents "took over" the management of the property, the carpet already had "shadows on it from wear in high traffic areas." On or about October 25, 2018, Scott corresponded with both Respondents Catchot and Terry and asked for the telephone number of the former tenants. Respondent Annette Terry responded two days later and refused to give Scott the information,

stating that “[w]e do not release tenant or former tenants information to anyone as it is private. We therefore feel we have no further obligation to you nor does the tenant, on this property.”

VIII.

During the Commission investigation, responses from Respondents were obtained along with documents attendant the listing and leasing activities undertaken on behalf of client Cassandra Scott. Numerous documentation issues were noted during the Commission investigation:

- Respondent Terry provided a Working with Real Estate Broker form (WWREB) regarding the listing of Scott’s property which WWREB reflected a Seller’s agency relationship with Scott. The WWREB was signed by Cassandra Scott but was not dated.
- An Exclusive Listing Agreement was signed by Scott and Respondents Catchot and Terry which reflected signatures but not date of signatures.
- An Authorization to Change Exclusive Right to Sell Listing Agreement and Extension form which purported to extend the listing until December 27, 2017 was not dated and reflected only the signature of Respondent Terry and not the signature of Scott as required.
- An Authorization to Change Exclusive Right to Sell Listing Agreement and Extension form which purported to extend the listing until December 31, 2018 was dated only as “July 2018” and reflected only the signature of Respondent Filipich and not the signature of Scott as required.
- Respondents’ file documents as submitted did not include the required Informational Statement for Mississippi Property Condition Disclosure Statement (PCDS) for the listing executed by Respondent Terry.
- The PCDS for the subject property when listed by Respondent Terry was incomplete. No property was identified on the subject PCDS.
- Regarding the management of the property while leased, a Management Agreement was submitted by Respondents which did not identify the property, and which only reflected the signature of the client Cassandra Scott.
- Documents attendant the property management activity for Scott’s property included documents referencing names including “Bay South Property Management Co.” when no

such company is licensed by the Mississippi Real Estate Commission. A company license exists for Bay South Property Management, LLC.

IX.

During the Commission investigation, documents were obtained that reflect the signature of Respondent Salesperson Annette Terry as providing services on behalf of "Bay South Property Management" and "Bay South Property Management Co.," ostensibly to reflect activities of the licensed company "Bay South Property Management, LLC" although Respondent Terry has never been licensed to practice real estate for Bay South Property Management, LLC. Respondent Terry's Salesperson's license was issued under Century 21, Bay South Realty, Inc.

CONCLUSIONS OF LAW

X.

The Commission and Respondents agree the above and foregoing described acts and omissions of Respondents constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, Miss. Code Ann. §§73-35-1, *et seq.*, Miss. Code Ann., and the Rules and Regulations of the Commission, and, more specifically, §73-35-15, §73-35-21(1)(d) and (n) and Commission Rules 3.1A, 3.1B, 3.2B, 3.3B, 4.2G (1), (2) and (5) and 4.3A which provide, in relevant parts:

§73-35-15 Location of business and responsible broker to be designated

- (1) Every person, partnership, association or corporation licensed as a real estate broker shall be required to have and maintain a definite place of business... The certificate of registration as broker and the certificate of each real estate salesperson employed by such broker shall be prominently displayed in said office. The said place of business shall be designated in the 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 the full power to refuse a license for cause or to revoke or suspend a license ...where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

(d) Any misleading or untruthful advertising;

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

Rule 3.2 B All exclusive listing agreements shall be in writing, properly identify the property to be sold, and contain all the terms and conditions under which the transaction is to be consummated...

Rule 3.3 B A broker shall advertise in the name in which the license is issued...

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

(1) 'Loyalty' –the agent must put the interests of the principal above the interests of the agent or any third party.

(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.

- (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.

Rule 4.3 A In a single agency, a broker is required to disclose, in writing, to the party for whom the broker is an agent in a real estate transaction that the broker is an agent of the party. The written disclosure must be made before the time an agreement for representation is entered into between the broker and the party. This shall be on an MREC Agency Disclosure Form.

DISCIPLINARY ORDER

Upon agreement and consent of Respondents as to disciplinary terms and disposition of this matter in lieu of a hearing before the Commission and, having issued its Findings of Fact and Conclusions of Law, the Commission hereby issues its Disciplinary Order as follows:

AS TO MICHELLE CATCHOT FILIPICH, BROKER ASSOCIATE:

1. The license of Respondent Michelle Catchot Filipich shall be suspended for one (1) month (thirty days) beginning February 15, 2020.
2. Following the period of suspension, the license of Respondent Filipich shall be suspended for three (3) months, held in abeyance. During the period of suspension in abeyance, Respondent Filipich will be permitted to practice real estate in the State of Mississippi insofar as she complies with all statutes, rules and regulations governing the practice of real estate in Mississippi and with all other terms of this Agreed Order.
3. Following the period of suspension in abeyance, the license of Respondent Filipich shall be on probation for a period of eight (8) months.
4. During the period of suspension, Respondent Filipich shall complete eight (8) hours of mandatory continuing education: four (4) hours Agency; two (2) hours Contract Law; and two (2) hours License Law. All courses shall be approved by the

Commission prior to being taken and must be administered by a Commission approved continuing education provider in a classroom setting. The mandatory continuing education hours shall be in addition to any hours required for renewal of Respondent Filipich's license and shall not be the same continuing education course from the same course provider previously completed for renewal of Respondent's license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

5. This Agreed Order shall be effective as to Respondent Filipich upon execution by the Commission.

AS TO ANNETTE P. TERRY, SALESPERSON:

1. The license of Respondent Annette P. Terry shall be suspended for one (1) month (thirty days) beginning February 15, 2020.
2. Following the period of suspension, the license of Respondent Terry shall be suspended for three (3) months, held in abeyance. During the period of suspension in abeyance, Respondent Terry will be permitted to practice real estate in the State of Mississippi insofar as she complies with all statutes, rules and regulations governing the practice of real estate in Mississippi and with all other terms of this Agreed Order.
3. Following the period of suspension in abeyance, the license of Respondent Terry shall be on probation for a period of eight (8) months.
4. During the period of suspension, Respondent Terry shall complete eight (8) hours of mandatory continuing education: four (4) hours Agency; two (2) hours Contract Law; and two (2) hours License Law. All courses shall be approved by the Commission prior to being taken and must be administered by a Commission approved continuing

education provider in a classroom setting. The mandatory continuing education hours shall be in addition to any hours required for renewal of Respondent Terry's license and shall not be the same continuing education course from the same course provider previously completed for renewal of Respondent's license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

5. This Agreed Order shall be effective as to Respondent Terry upon execution by the Commission.

AS TO CAROLYN CATCHOT, PRINCIPAL BROKER:

1. The license of Respondent Carolyn M. Catchot shall be suspended for one (1) month (thirty days) beginning March 16, 2020 or thereafter upon designation of a principal/responsible broker in place of Respondent Catchot.
2. Following the period of suspension, the license of Respondent Catchot shall be suspended for three (3) months, held in abeyance. During the period of suspension in abeyance, Respondent Catchot will be permitted to practice real estate in the State of Mississippi insofar as she complies with all statutes, rules and regulations governing the practice of real estate in Mississippi and with all other terms of this Agreed Order.
3. Following the period of suspension in abeyance, the license of Respondent Catchot shall be on probation for a period of eight (8) months.
4. During the period of suspension, Respondent Catchot shall complete eight (8) hours of mandatory continuing education: four (4) hours Agency; two (2) hours Contract Law; and two (2) hours License Law. All courses shall be approved by the Commission prior to being taken and must be administered by a Commission

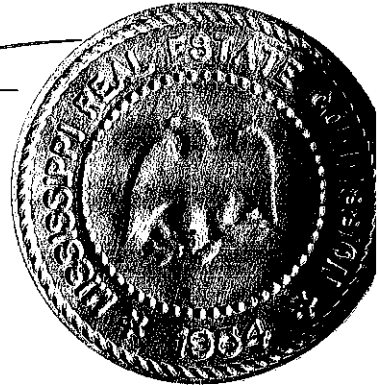
approved continuing education provider in a classroom setting. The mandatory continuing education hours shall be in addition to any hours required for renewal of Respondent Catchot's license and shall not be the same continuing education course from the same course provider previously completed for renewal of Respondent's license during the last renewal period. Respondent shall furnish to the Commission written evidence of the satisfactory completion of the required courses.

5. This Agreed Order shall be effective as to Respondent Catchot upon execution by the Commission.

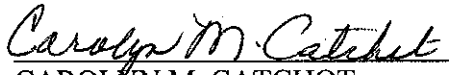
THIS the 11th day of FEBRUARY, 2020.

MISSISSIPPI REAL ESTATE COMMISSION


BY: 
ROBERT E. PRAYTOR



AGREED:

 DATE 1-27-20
CAROLYN M. CATCHOT

 DATE 1-27-20
MICHELLE CATCHOT FILIPICH

 DATE 1-27-2020
ANNETTE P. TERRY