

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

vs.

NO. 025-1905

LEE THOMAS, Principal Broker

STEPHANIE J. O'MEARA, Salesperson

RESPONDENTS

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 Lee Thomas, Principal Broker, and Stephanie O'Meara, Salesperson. Prior to any hearing before the Commission, the parties announced their stipulation and agreement as to the resolution of the matters alleged and any disciplinary actions that may be imposed. By entering into this order, the 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 the matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

I.

Respondent, Lee Thomas (sometimes hereinafter called "Thomas" or "Respondent I"), is an adult resident citizen of Mississippi whose last known address of record with the Commission is 1467 Ceasar Rd, Carriere, MS. Respondent Broker Thomas 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, he 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.

Respondent, Stephanie J. O'Meara (sometimes hereinafter called "O'Meara" or "Respondent II"), is an adult resident citizen of MS whose last known address of record with the Commission is 38 Entrekin Rd., Carriere, MS. Respondent O'Meara 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.

III.

On May 8, 2019 the Commission received a sworn statement of complaint from Martha Ford, Principal Broker of Ford Realty Inc., located at 1004 Memorial Boulevard in Picayune, Mississippi (39466). Her complaint was made against Lee Thomas, Principal Broker, and Salesperson Stephanie J. O'Meara of Core Alliance Realty, located at 1620 U. S. Highway 11 North, Suite D, Picayune, Mississippi (39466) concerning O'Meara's advertised use of drones.

IV.

Ford stated in her complaint that on 4/24/2019, Respondent O'Meara posted on her Facebook page that she was using a drone and offering free photographs and/or videos with all listings. It was indicated in O'Meara's posting that she did not have a license or a FAA Certification to operate the drone. She purportedly stated to a client with whom she had a listing that she would have the photos of the listings and told the prospect not to worry.

V.

Included in this complaint was a copy of an email from Ford to Mary Hall, the Association Executive of the Pearl River County Board of Realtors. The email referred to questioning of whether drone operators needed to be licensed. Hall responded by providing a link to drone laws and stated that a license is required, and insurance must be in effect.

VI.

Ford also included copies of Facebook posts from O'Meara where O'Meara stated that she "just got her drone" and posted drone pictures and indicated that the photos were being offered with all of her listing for free, and stating "I do not have any certifications".

VII.

Ford also provided a copy of an article from FAA News, dated June 21, 2016, entitled "Summary of Small Unmanned Aircraft Rules" (part 107) which stated, in part "A person operating a small UAS must either hold a remote pilot airman certificate with a small UAS rating or be under the direct supervision of a person who does hold a remote pilot certificate."

VIII.

O'Meara, in her response, claimed that she is not required by the FAA to have a certification because the drone does not meet certain requirements. O'Meara stated that her drone weighs .32 pounds and that the required weight for FAA registration and certification is any drone weighing over .55 pounds. O'Meara added that she enclosed a screenshot of her posting stating that pictures were offered for free with all of her listings. She explained that, per FAA rules, the drone was not required to be registered, she was not required to be licensed and she was not allowed to charge for using it and that she is not allowed to represent herself as certified. Therefore, she offered the photos for free and stated she was not certified. O'Meara considers her statements not inducements but merely disclosures required by the FAA. O'Meara avers that she made sure she did not offer an incentive or ask for business. O'Meara included copies made from a FAA website ("www.faadronezone.com") that stated from where she drew her waivers.

IX.

On May 30, 2019 Respondent broker Thomas responded, stating that upon receipt of the MREC complaint he immediately told O'Meara to remove all drone photos that she had uploaded. Respondent Thomas admitted that he was unaware that she made any social media posts or used any photos from the drone until he received the complaint. He did review her MLS listings and social media pages and only found the same 2 photos that were provided by Ford in her sworn complaint. Ironically, O'Meara won the drone at a REALTOR function. Thomas said that apparently O'Meara investigated the FAA requirements and found information on that website that made it appear that she was compliant due to some drone weight regulations. However, upon speaking directly with the FAA, Thomas said he learned that if a drone is to be used for commercial purposes, then the pilot must be licensed, and the drone must be registered regardless of its weight.

X.

The above and foregoing described acts of the Respondents, Lee Thomas, and Stephanie J. O'Meara constitute violations of M.C.A. § 73-35-1, et seq., including §73-35-21(n) and MREC Administrative Rules 3.1 and 3.3 in particular:

§ 73-35-21. Grounds for refusing to issue or suspending or revoking license; hearing

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:

(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.

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.

Rule 3.3 Advertising

- B. 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.

DISCIPLINARY ORDER

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

As to Lee Thomas, Principal Broker, the Commission orders that his license incur a one (1) month of suspension, held in abeyance, followed by five (5) months of probation, beginning the date Thomas signs this order, and contingent upon both his future compliance with all Miss. Real Estate Statutes and Commission Rules.

As to Stephanie O'Meara, Salesperson, the Commission orders that her license incur three (3) months of suspension, held in abeyance, followed by three (3) months of probation, beginning the date she signs this order, and contingent upon both his future compliance with all Miss. Real Estate Statutes and Commission Rules.

So Ordered, this the _____ day of _____, 2020.

MISSISSIPPI REAL ESTATE COMMISSION



BY: _____
ROBERT E. PRAYTOR, Administrator

AGREED: _____ DATE: _____
Lee Thomas, Broker

AGREED: _____ DATE: _____
Stephanie O'Meara, Salesperson

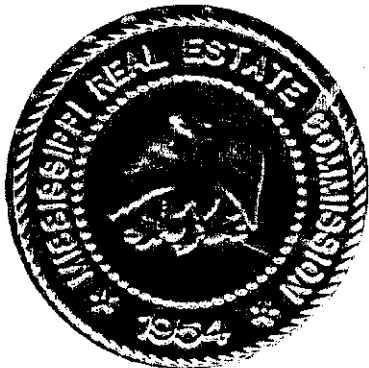
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So Ordered, this the 11th day of FEBRUARY, 2020.



MISSISSIPPI REAL ESTATE COMMISSION

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

AGREED: L. Thomas DATE: 2/7/2020
Lee Thomas, Broker

AGREED: _____ DATE: _____
Stephanie O'Meara, Salesperson

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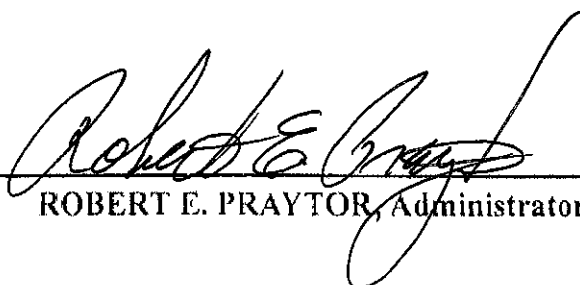
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So Ordered, this the 11th day of FEBRUARY, 2020.



MISSISSIPPI REAL ESTATE COMMISSION

BY:


ROBERT E. PRAYTOR, Administrator

AGREED: _____ DATE: _____
Lee Thomas, Broker

AGREED: S O'meara _____ DATE: 2/7/2020
Stephanie O'Meara, Salesperson