

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

vs.

NO. 039-1907

CONSTANCE JEAN WEST, 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 Constance Jean West, Broker, and the Commission was advised that there has been an agreement reached resolving the issues brought forward in this complaint. By entering into this Agreed Order, this Respondent waive her right to a full hearing and her right to appeal to a circuit court. The Commission, then, does hereby FIND and ORDER the following:

I.

Respondent, Constance Jean West (sometimes hereinafter called "West" or "Respondent"), is an adult resident citizen of Mississippi whose office address of record with the Commission is 4101 Gautier-Vancleave Rd, Gautier, MS 39553. Respondent West is the holder of a 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 the real estate industry under Mississippi law and the administrative rules of the Mississippi Real Estate Commission.

II.

On June 20, 2019 this office received a sworn statement of complaint from Mark I. Wallace who lives in Swarthmore, Pennsylvania. He filed a complaint against Principal Broker Constance Jean West whose office is located at 4101 Gautier-Vancleave Road, #5, in Gautier, Mississippi 39553.

III.

Mark Wallace is a beneficiary of the Trust of Homer Wallace and Shirley Wallace, created by his parents. His 89-year-old father, Homer Wallace, is the Trustee of the Trust. This Trust consists of some residential rental properties located in Gautier, MS. The complainant, Mark Wallace, believes that Broker West had taken advantage of Homer Wallace, Trustee, by attempting to purchase these properties for herself at a greatly reduced price, when compared to the actual value of the properties. In 2019, Complainant Wallace filed a legal action against his dad, Trustee Wallace in Jackson County Chancery Court to remove him as Trustee. At the time of the filing, Respondent West had been managing these Trust properties for approximately 25 years.

IV.

Mark and his sister, also a beneficiary, believed that their father no longer has the mental ability to act as Trustee and wanted him removed from that position. On May 10, 2019, Chancery Court Judge Tanya Hasbrouck conducted a hearing on temporary matters that included testimony. The Trustee, Homer Wallace, flew in from his current California residence to attend. Respondent West was present but was instructed by the Judge to wait outside the Courtroom. On May 13, 2019, an Order was issued which included a mandate that Homer Wallace was not to transfer or dissipate the assets, including the Gautier properties, until further review was completed by the Court.

V.

Right after this May 10, 2019 hearing, Trustee Wallace and Respondent West were driving back to her office. Trustee Wallace asked West to find a buyer for the properties or purchase them herself. Respondent West says she replied that Homer should talk with his attorney to see if it was possible to sell them. Homer said he had spoken with the attorney that created the Trust and was told he could sell them, per the terms of the Trust. Respondent West said she suggested he give them to his children, and that Trustee Wallace replied that he did not want to do that, due to their recent actions. Respondent West said she told him she might know of some investors who were always looking for investment properties. Trustee Wallace flew back to California that evening (May 10, 2019) and called Respondent West a couple of days later to see if there was any update. Respondent West said she was unable to purchase any properties herself at that time, and Homer gave her verbal permission to disclose rental rates and basic income and expense information to interested investors. West said that at no time was Homer pressured or manipulated by her to sell the trust properties for any price or on any terms. Respondent West claims that it was strictly Homer's idea to sell the properties in order to end the Trust and his dealings with his children.

VI.

Respondent West reached out to potential buyers and found one investor, REIS, Inc., that made an offer on 5 of rental properties. This offer was accepted by Trustee Wallace in late May and documentation was provided to his trust attorney, Nathan Prescott, for submission to the Court for approval at the next hearing that was scheduled for July 17, 2019. This Buyer did not intend to withdraw his intention to purchase and was willing to wait on Court approval. The listing contract expired July 31, 2019 but West had notified Trustee Wallace and the trust attorney by email back on July 02, 2019 that she didn't want to be involved in this transaction anymore, because of the family drama, and asked attorney Prescott to prepare a purchase contract, if the court approved any