

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

CASE NO. 2023-107

ROBERT CARLETON III, Principal Broker  
JOYCE HOLIFIELD, Broker Associate

RESPONDENTS

AGREED ORDER IN RE: JOYCE HOLIFIELD, BROKER ASSOCIATE

THIS CAUSE is before the Mississippi Real Estate Commission, (sometimes hereinafter "Commission"), pursuant to authority of Miss. Code Ann. §§73-35-1, *et seq.*, as amended, on a formal Complaint against Robert Carleton III, Principal Broker, and Joyce Holifield (sometimes hereinafter "Respondent" or "Holifield") who, at all times relevant to the Complaint, was a Broker Associate employed by the brokerage firm of Robert Carleton III. Prior to the administrative hearing scheduled and duly noticed by the Commission, the Commission and Respondent Holifield announced their agreement as to the allegations of the Commission's Complaint and for disciplinary action, all as set forth herein. By entering into this Agreed Order, Respondent Holifield waives her right to an administrative hearing on the Commission's Complaint with full due process and the right to appeal any adverse decision which may have resulted from that hearing. Further, Respondent acknowledges, as evidenced by her signature affixed hereto, this Agreed Order must be approved by the Commission and Respondent waives any objection she may have as to the Commission taking up this matter preliminarily for the purposes of considering

approval for this Agreed Order. Respondent acknowledges and agrees that, should the Commission reject approval of this Agreed Order, Respondent will retain her right to proceed to an administrative hearing with full due process before the Commission, or if elected by Respondent, an Administrative Hearing Officer assigned by the Office of Attorney General. Having reached an agreement in this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

### FINDINGS OF FACT

#### I.

Respondent Joyce Holifield is an adult resident citizen of Mississippi and is the holder of a Mississippi real estate broker's license issued pursuant to Miss. Code Ann. §§73-35-1, *et seq.*, as amended, and, as such, is subject to all provisions, rules, regulations, and statutes governing sale and transfer of real estate and licensing of real estate brokers under Mississippi law. Holifield's current address of record with the Commission is 124 N. Main St., Newton, Mississippi 39345, and at all times relevant to this Complaint, Holifield was employed by Respondent Carleton's above-noted brokerage as a broker associate.

#### II.

On or about November 13, 2023, the Commission received a sworn complaint from Barbara McCord on behalf of herself and her husband Ken McCord, (hereinafter, "McCord," or "Complainant"), regarding their purchase of residential property located at 155 West Broad Street, Decatur, Mississippi 39237, from owners Stan Heflin, Dana Vance,

Danny Heflin, and Marie Hollingsworth. Hollingsworth owned a life estate interest in the property. Respondent Joyce Holifield represented these owners/sellers in the transaction, which closed on or about June 20, 2023.

### III.

With her Complaint, McCord submitted documentation to the Commission along with a sworn statement, variously alleging that when the McCord's real estate agent, Joyce Elaine Sones, asked Respondent Holifield for the required Property Condition Disclosure Statement (PCDS) for the property, Holifield replied that a PCDS was [statutorily] "excluded because part of an estate." An exchange of texts between Sones and Holifield dated May 13, 2023, contains this initial communication/representation by Holifield.

### IV.

Respondent Holifield admitted she knew that all of the above-noted property owners were alive, including Marie Hollingsworth who possessed a life estate interest in the property. Accordingly, the property was not owned in any part by a decedent's estate undergoing administration, nor was the property being transferred by a fiduciary in the course of the administration of a decedent's estate. Consequently, the PCDS requirement was not excluded by Miss. Code Ann. §89-1-501(2)(c), which specifically excludes from the PCDS requirement: "*Transfers by a fiduciary in the course of the administration of a decedent's estate... .*"

## V.

Respondent Holifield's representation asserting the exclusion of a PCDS was negligent, and inarguably false, and, as such, constituted a substantial misrepresentation by Holifield, and which resulted in the failure of the sellers to satisfy the statutory requirement of providing a PCDS to the Complainant buyers (McCord), who were entitled to the specific protection afforded by this statutory requirement. Holifield was negligent in mistakenly asserting that the above-noted statutory exclusion to the PCDS requirement applied when it inarguably did not apply. Furthermore, Holifield erred in asserting the same on behalf of the sellers, by failing to exercise ordinary care in assessing the potential consequences of her affirmative representation.

## VI.

In certain, distinct circumstances, real estate licensees are shielded from professional liability and disciplinary action pertaining to the information required to be disclosed, or the delivery of that information required to be disclosed in a Property Condition Disclosure Statement (PCDS). There is no shield from liability for the affirmative interjection, in this instance, of a substantial and material misrepresentation into a real estate transaction to the detriment of the parties to the subject transaction.

## VII.

While the word "estate" appears in the term "life estate," a "life estate" is not a "decedent's estate under the administration of a fiduciary." The foregoing are separate and distinct concepts. Respondent Holifield, as an experienced real estate professional, should

have known, or should have investigated the parameters of this scenario and its attendant issues. Instead, Holifield negligently inserted her mistaken, conclusory belief into the evolving transaction to the detriment of both her client sellers and the buyers. Holifield's actions exposed her own seller clients to liability and resulted in financial damages to the Complainant buyers (McCord).

### CONCLUSIONS OF LAW

#### VIII.

The Commission and Respondent Joyce Holifield agree, as evidenced by their signatures affixed hereto, the above and foregoing acts and omissions of Respondent Holifield constitute violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, Miss. Code Ann. §§73-35-1, *et seq.*, and the Rules and Regulations of the Commission, and more specifically, Miss. Code Ann. §73-35-21(1)(a) and (n), MREC Rules 3.1(F), and 4.2 (G) which provide, in relevant parts:

Miss. Code Ann. §73-35-21(1): The commission may ... revoke or suspend a license ... where the licensee is deemed guilty of: ...

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

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(n): Any act ... which constitutes or demonstrates ...incompetency ...or improper dealing...

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.

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

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

### DISCIPLINARY ORDER

Upon agreement and consent of Respondent Holifield as to disciplinary terms and disposition of this matter in lieu of an administrative hearing 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 Holifield shall be suspended for a period of one (1) month.
2. Following the period of suspension, the license of Respondent Holifield shall be suspended for a period of five (5) months, held in abeyance. During the period of suspension in abeyance, Respondent Holifield 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. Prior to the expiration of the period of suspension in abeyance, Respondent Holifield 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 conducted by a Commission approved continuing

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

4. This Agreed Order shall be effective upon the date it is approved by the Commission as evidenced by the Commission Administrator.

This, the 14<sup>th</sup> day of JANUARY, 2025.

MISSISSIPPI REAL ESTATE COMMISSION

BY:

Robert E. Praytor  
ROBERT E. PRAYTOR, Administrator

AGREED BY:

Joyce Holifield  
JOYCE HOLIFIELD

DATE: 12-31-2024

