



**STATE OF TENNESSEE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273**

<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission met on April 10, 2024, at 8:30 a.m. CST in room 1-A of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, TN 37243. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Executive Director Denise Baker read the public disclaimer and called the roll. The following Commission members were present: Chairman Geoff Diaz, Vice-Chair DJ Farris, Commissioner Joan Smith, Commissioner Steve Guinn, Commissioner Jon Moffett, Commissioner Joe Begley, Commissioner Kathy Tucker, and Commissioner Michael Gaughan. Commissioner Stacie Torbett was absent. Quorum Confirmed. Others present are Associate General Counsel Anna D. Matlock, Associate General Counsel Kimberly Cooper, Associate General Counsel Aerial Carter, Paralegal Carol McGlynn, Education Director Ross White, and TREC staff member Aaron Smith.

The board's April meeting agenda was submitted for approval.

The motion to approve the April 10, 2024, agenda was made by Commissioner Smith and seconded by Vice-Chair Farris. The motion passed unanimously.

The February 20, 2024, Commission meeting minutes were submitted for approval.

The motion to approve the February 20, 2024, minutes was made by Vice-Chair Farris and seconded by Commissioner Smith. The motion passed unanimously.

INFORMAL APPEARANCE

Henry Wieniewitz appeared before the Commission with his Principal Broker, Diana Traylor, to receive approval for his Affiliate Broker license.

The motion to approve Henry Wieniewitz was made by Commissioner Gaughan and seconded by Commissioner Tucker. The motion carried unanimously.

Wilton Short appeared before the Commission with her Principal Broker, Gerald Johnson, to receive approval for his Affiliate Broker license.

The motion to approve Wilton Short was made by Vice-Chair Farris and seconded by Commissioner Moffett. The motion carried unanimously.

Ernest McMahan appeared before the Commission with his Principal Broker, Dagan Greene, to receive approval for his Affiliate Broker license.

The motion to approve Ernest McMahan was made by Commissioner Smith and seconded by Commissioner Moffett. The motion carried unanimously.

Keith Greene appeared before the Commission with his Principal Broker, Charles Yates, to receive approval for his Timeshare Salesperson license.

The motion to approve Keith Greene was made by Commissioner Tucker and seconded by Commissioner Gaughan. The motion carried unanimously.

Trammell Sturdivant Jr. appeared before the Commission with his Principal Broker, Barry Valcarcel, to receive approval for his Affiliate Broker license.

The motion to approve Trammell Sturdivant Jr. was made by Commissioner Begley and seconded by Commissioner Moffett. The motion carried unanimously.

WAIVER REQUEST

Executive Director Denise Baker presented Vivian Hunt to the Commission seeking a medical waiver for fees.

The motion to approve the waiver was made by Vice-Chair Farris and seconded by Commissioner Smith. The motion carried 7-1 with Commissioner Smith voting no.

EDUCATION REPORT

Education Director Ross White presented the Education Report to the Commission.

The motion to approve courses A1-A80 was made by Commissioner Smith and seconded by Commissioner Tucker. The motion passed unanimously.

Education Director Ross White presented the Instructor Bios for approval.

The motion to approve the Instructors Bios was made by Commissioner Smith and seconded by Commissioner Guinn. The motion passed unanimously

EXECUTIVE DIRECTOR'S REPORT

Executive Director Denise Baker updated the Commission on the topics below.

TREC May Meeting – The Commission was reminded that the May meeting would take place at The Jackson City Hall, in Jackson, TN on May 9, 2024.

TREC Audits – The Executive Director updated the commission on the Audit process. Nine (9) firms were selected. The future goal is to create webinars for principal brokers on the audit process.

TREC TN High School Licensing Program – The Commission was advised that the program will open to all 95 counties for graduating Seniors to pursue a career in real estate. The target date for release is April 22, 2024.

TREC RFP – Executive Director Denise Baker advised the RFP for a license examination provider has been submitted for approval. Upon approval bids, will be accepted for the licensing examination provider.

ARELLO Mid-Year Conference – Executive Director Baker advised the Mid-Year conference is upcoming with Associate General Counsel Anna Matlock, Education Director Ross White, and TREC Executive Director Denise Baker attending.

LEGAL_SECTION:

TREC Formal Hearing Respondent: Krystal L. Whaley—: Associate General Counsel Anna Matlock informed the Commission a contested case proceeding (formal hearing) is scheduled to take place tomorrow, April 11, 2024, beginning at 8:30 a.m.

CONSENT AGENDA

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal counsel and were recommended for either dismissal or disciplinary action.

A motion was made to accept Counsel's recommendation for complaints 1-67 except for the following complaints, which were pulled for further discussion: **2023058921, 2023062651, 2023064971, 2023064031, 2023064091, 2023065861, 2024005271, 2024003661, 2023004861, 2023059301, 2024001181, 2024001541, 2022036971, and 2023056771.**

The motion was made by Vice-Chair Farris and seconded by Commissioner Smith. The motion carried unanimously.

After further discussion by the Commission on complaint 2023058921, Commissioner Begley motioned **to authorize a formal hearing and issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.** Commissioner Moffett seconded the motion. The motion carried 7-1 with Commissioner Gaughan voting no.

After further discussion by the Commission on complaint 2023062651, Commissioner Smith motioned **to accept the Counsel's recommendation.** Commissioner Gaughan seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023064971, Commissioner Smith motioned **to close and flag this complaint.** and Commissioner Tucker seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023054841, Commissioner Begley motioned **to accept the Counsel's recommendation** Commissioner Guinn seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023056211, Commissioner Smith motioned **to accept the Counsel's recommendation**, and Commissioner Tucker seconded the motion. The motion was carried unanimously.

After further discussion by the Commission on complaint 2023064031, Vice-Chair Farris motioned **to authorize a formal hearing and issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.** Commissioner Gaughan seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023064091, Commissioner Smith motioned **to accept the Counsel's recommendation**, and Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023065861, Commissioner Smith motioned **to accept Counsel's recommendation** and Vice-Chair Farris seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2024005271, Commissioner Smith motioned **to accept the Counsel's recommendation**, and Commissioner Tucker seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2024003661, Commissioner Begley motioned **to accept the Counsel's recommendation**, and Vice-Chair Farris seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023004861, Vice-Chair Farris motioned **to authorize a formal hearing and issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(4), failure to provide services to each party of the transaction with honesty and good faith.** Commissioner Smith seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023059301, Vice-Chair Farris motioned **to dismiss the complaint** and Commissioner Guinn seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2024001181, Vice-Chair Farris motioned **to issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.** Commissioner Moffett seconded the motion. The motion carried 7-1 with Commissioner Guinn voting no.

After further discussion by the Commission on complaint 2024001541, Vice-Chair Farris motioned **to accept the Counsel's recommendation,** and Commissioner Smith seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022036971, Vice-Chair Farris motioned **to accept the Counsel's recommendation,** and Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023056771, Commissioner Smith motioned **to continue with the original discipline,** and Commissioner Guinn seconded the motion. The motion carried unanimously.

Kim Cooper

New Complaints:

- 2023055351**
Opened: 11/14/2023
First Licensed: 8/10/2021
Expires: 8/9/2025

Type of License: Affiliate Broker

History: None

Complainant was seller's agent; Respondent was buyer and buyer's agent for them and their spouse. Respondent made offer and contract was bound on July 21, 2023. On August 15, 2023, Respondent advised Complainant that the appraisal on the home had come in too low, and Respondent indicated they wanted to switch to a VA

loan. At this point, there were several days where Complainant alleges, they did not hear from Respondent, despite needing additional information regarding the financing and having other unanswered questions. Complainant advised Respondent to speak to their broker, and the deadline for the appraisal contingency was deemed to have been met with no termination from the Respondent. Complainant alleged they were then contacted by Respondent's broker, who attempted negotiations including a new Compensation Agreement despite the deadline having come and gone. Complainant alleged that Respondent and broker engaged in a series of proposed "Amendments" and arguments regarding the timeliness of the notification of the low appraisal, and so Complainant copied their own broker on all communications moving forward. A week later Respondent sent a Notification that the buyers were terminating due to the appraised value and asked for their earnest money back, contrary to the plain language of the purchase agreement. Complainant alleges that Respondent was by then already in default and had been notified that the Sellers were moving forward with legal action if necessary. Complainant alleges that Respondent failed to act in good faith and with reasonable skill and care to all parties, and that Respondent's broker failed to adequately supervise Respondent.

A response was provided by the Principal Broker of Respondent ("RB"). Respondent denied all allegations of improper dealing and failure to supervise. Respondent acknowledged that the sale of the home was in danger after the appraisal came through below value, and states that they contacted Complainant's broker ("CB") directly to see what could be done. Respondent alleges it was at CB's suggestion that the amendment to the Purchase and Sale Agreement be drafted and sent to Complainant, and they followed up with CB to confirm the amendment was received. PB denies that Respondent was ever told to breach the Purchase Agreement and instead advised Respondent to contact legal counsel, which they did. PB stated they had multiple conversations with CB as the "deal unraveled" to resolve the issues and denies that Respondent did anything improper.

Both parties sought out their own legal counsel to advise them during this process, and it appears that both have and continue to rely on the legal advice they have been

provided. Counsel for the Commission cannot say there is sufficient evidence that the Respondent or PB acted in bad faith or without reasonable skill or care.

Recommendation: Close and flag. Should there be a finding that the Respondent or PB acted in bad faith counsel will recommend re-opening complaint.

Commission Decision: The Commission accepted counsel's recommendation.

2. **2023055371**
Opened: 11/14/2023
First Licensed: 10/13/1999
Expires: 9/23/2024
Type of License: Real Estate Broker
History: None

Respondent is the Principal Broker of Respondent/Affiliate Broker in REC-2023055351 (#1). Respondent denied all allegations of improper dealing and failure to supervise. Respondent acknowledged that the sale of the home was in danger after the appraisal came through below value, and states that they contacted Complainant's broker ("CB") directly to see what could be done. Respondent alleges it was at CB's suggestion that the amendments to the Purchase and Sale Agreement be drafted and sent to Complainant, and they followed up with CB to confirm the amendment was received.

Recommendation: For the reasons stated above, Counsel recommends close and flag.

Commission Decision: The Commission accepted counsel's recommendation.

3. **2023055971**
Opened: 12/11/2023
First Licensed: 9/22/2017
Expires: 9/21/2025
Type of License: Affiliate Broker
History: None

Related to REC-2023055961 (#7).

Complainant is a licensee in another state and was a purchaser of property. Complainant was represented by their own Buyer's Agent. Respondent was the Seller's agent of the property being sold and a family member of the Seller and has the same last name of the Seller. Complainant alleges that Respondent knew of a gas-line easement on the property since the 1950s and had updated documentation of the easement in November 2022. Complainant alleges that Respondent was notified in May 2023 that an eighteen (18) month long maintenance project on the gas-line was planned and failed to disclose not only the existence of the easement but also the planned maintenance to the Complainant. Complainant also alleges that Respondent did not disclose their own personal interest in the property. Complainant requested a "fifty percent reduction/refund" of the purchase price due to the alleged loss of value to the property.

Respondent stated that they advised every interested agent that there was a gas line and easement on the property; that it is marked on the survey; and that there could be no development on that area of the property due to the easement. An appraisal was done and included the gas-line and easement. Respondent also provided a Disclosure of Personal Interest and a Survey of the property along with proof they were available to the Buyer's agent at the time of the first and second offer made by

Complainant. Respondent denied any knowledge of an “18-month long project” and had previously asked Seller to share any additional information regarding the easement. Seller gave Respondent the name of the gas company, who passed that along to the Buyer’s Agent. Counsel for the Commission reviewed the Survey, and the gas line and easement are clearly marked.

Based on the information and documentation provided there is insufficient proof of a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

4. **2023058921**

Opened: 12/11/2023

First Licensed: 8/4/2005

Expires: 7/17/2025

Type of License: Principal Broker

History: 2010 Agreed Order for failure to maintain E&O insurance; 2015 Consent Order for multiple violations of giving or charging any undisclosed commission, rebate, compensation or profit or expenditures for a principal and also multiple violations for improper, fraudulent, or dishonest dealing; 2019 Consent Order for failure to supervise an affiliate’s actions

Complainant was Buyer; Respondent was the listing agent for the Seller. This was a bank-owned property. Complainant alleges that the Respondent did not respond to their agent’s texts, emails and calls in a timely manner, and lied about having the utilities turned on at the property so that the home appraisal could be done. As a result, the appraisal had to be re-scheduled multiple times, and the closing was postponed so that repairs could be made. Complainant included a timeline of events

as well as copies of emails sent by their agent to Respondent wherein Complainant's agent admonishes Respondent about their failure to respond and that the closing is in danger due to Respondent's failures to address repairs, questions about costs, etc. Complainant alleges Respondent was unprofessional, negligent and did not provide reasonable skill and care.

Respondent denied the allegations and alleged that they advised Complainant's agent multiple times that the bank was essentially working on their own timeline, not the time-line desired by the Complainant and their agent. Respondent apologized for the longer response times from the Seller and that the Complainant had a difficult time with their home purchase but placed the blame on the Seller. Respondent provided a copy of communication with Seller obtained from Seller's communication log, but Respondent did not address their failure to respond to the texts, calls and emails from Complainant's agent in a timely fashion.

Recommendation: Discuss.

Commission Decision: The Commission voted to authorize a formal hearing and issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.

5. **2023061661**

Opened: 12/19/2023

First Licensed: 4/3/1998

Expires: 10/19/2024

Type of License: Principal Broker

History: 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complainants allege that they hired Respondent to be their listing agent for a property. Respondent found a buyer and after negotiations Respondent sent a contract to be signed with “correct counter terms.” Complainants allege that Respondent altered the contract after signing to have different terms than the agreed upon terms and allege that Respondent was unprofessional and rude. Complainants allege that Respondent did not act in their interests or in the interest of the buyers.

Respondent’s attorney (“RA”) and Respondent denied the allegations. RA provided copies of the Exclusive Right to Sell; Confirmation of Agency Status; Purchase and Sale Agreement; and the DocuSign signature page date-stamped and time-stamped of the Purchase and Sale Agreement. There was a disagreement between the parties regarding the closing company that would be used, and after attorneys for both sides got involved, it was resolved in Complainant’s favor. Additionally, copies of emails between Respondent and Complainant were provided wherein it was Complainant who at times was less than cordial/professional in their exchange with Respondent. Based on the information and documentation provided there is insufficient proof of a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

6. 2023062201
Opened: 12/19/2023

First Licensed: 6/6/2019

Expires: 6/5/2025

Type of License: Affiliate Broker

History: None

Complainant was the buyer of a residential property and alleges that while they were representing themselves, they contracted with Respondent to “assist as they did not know real estate law”. Complainant alleges that after executing a representation agreement with Respondent, Respondent did not meet with Complainant, never returned calls without being promoted by text, failed to get repairs completed, refused to assist in wiring funds and did not complete a final walk-thru. Complainant also alleges that Respondent sued Complainant for their commission prior to the commission being due. Complainant alleges Respondent was negligent and did not provide reasonable skill and care.

Respondent stated that they entered into a Buyers Representation Agreement with Complainant in February 2022 and attached a copy of the Agreement. In September 2022 Complainant entered into a Purchase and Sale Agreement with Sellers and earnest money was wired to the Sellers. A few days later, Respondent alleges that a home inspection was completed, and a Repair Amendment was executed by the parties. Complainant then negotiated repairs directly with Sellers. Respondent stated that the Complainant had stayed in the home previously as a “VRBO” for an extended period and was already familiar with the property. The contract fell through due to Complainant not having sufficient funds to purchase and their earnest money was returned. Approximately 4 months later, in April 2023, Complainant again contacted Respondent for assistance this time to locate a rental home. Complainant then attempted to enter into a Purchase and Sales Agreement with Sellers for their home for a second time but with the assistance of an attorney not Respondent. The Complainant then requested that Respondent prepare an Occupancy Agreement for Complainant on May 31, 2023, and entered into a Purchase Agreement with Sellers on June 15th, with a closing date of July 14th. Respondent alleges that a final walk-through was not done prior to closing because Complainant had already been living in the home for close to six weeks. Respondent denied failing to timely respond to Complainant’s requests and confirmed they did sue Complainant for breaching the

Buyers Representation Agreement and the Purchase and Sale Agreement regarding their commission.

Complainant provided a rebuttal that addressed many of their arguments over the terms of payment of Respondent's commission. Complainant also provided what they state is a call-log of calls with Respondent. All calls were placed by Complainant to Respondent, and again alleged that Respondent did not represent them as required during the term of their representation.

Based on the information provided there is insufficient proof of a violation of the *Broker Act* or Rules, and the payment dispute currently under litigation is not under the jurisdiction of the Commission.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

7. **2023055961**
 Opened: 1/2/2024
 First Licensed: 3/18/2023
 Expires: 3/17/2025
 Type of License: Real Estate Firm
 History: None

This complaint is related to REC-2023055971 (#3).

Complainant Buyer is alleging fraudulent activity by the listing agent and their firm/Respondent for not disclosing an easement for a gas pipeline on the purchased property. For the reasons stated previously, counsel recommends dismissal.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

8. **2023060331**
Opened: 1/2/2024
First Licensed: 2/27/2020
Expires: 2/26/2026
Type of License: Real Estate Firm
History: None

Complainant is a tenant of a property managed by Respondent. Complainant alleges that Respondent has repeatedly ignored Complainant's request for maintenance for almost a year, specifically a leaking sink, and that as a result their home is now infested with mold. Complainant documented their attempts to address the matter with Respondent and included copies of emails along with pictures of the extensive damage to their home and their children's belongings because of the leaking sink. Complainant also included copies of hotel receipts where Complainant's family was forced to stay at times due to the mold. Respondent's only reply to Complainant was to tell Complainant they were behind on their rent, which Complainant states was not accurate.

Respondent placed the blame for the delayed maintenance on turnover in leadership at the property and stated that they would address the repairs immediately. Respondent also stated that there is a "grievance process" in place for tenants and asked that the Commission refrain from taking any action until Complainant and Respondent were able to discuss that process. Complainant is concerned that after a year and their many complaints being ignored that Respondent will take retaliatory action against Complainant. Complainant was able to move after the term of their

lease expired but as of the date of this report Respondent has still not responded to any of Complainant's inquiries regarding their security deposit.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession that belong to others in violation of T. C. A. § 62-13-312(b)(6).

Commission Decision: The Commission accepted counsel's recommendation.

9. **2023062651**
Opened: 1/2/2024
First Licensed: 12/11/2015
Expires: 12/10/2025
Type of License: Real Estate Firm
History: None

Complainant was an out-of-state buyer of a home; Respondent was the listing agent for the property. Complainant alleges that after entering into a Purchase and Sale Agreement on the home a home inspection was done and revealed that the septic system would need to be replaced. Complainant visited the home in person prior to closing and found it to be "filthy"; septic issues were obvious from the moment they opened the car door; and claims Respondent knew of the issues and did not disclose to Complainant. Complainant withdrew their agreement to purchase and is alleging dishonesty and fraud by Respondent. Complainant demanded restitution for the money spent on a termite inspection and home inspection fee from Respondent. (Complainant was represented by their own agent.)

Respondent stated that they spoke with Seller multiple times and discussed the septic system, which a recent inspection found to be in working order but would probably need to be replaced in a few years. Respondent provided copies of her notes to that effect with Seller and that the cost of potential replacement would be factored into price "to be safe" as well as a note included in the agent remarks in the MLS listing.

The home had been under contract once before and no mention was made regarding any issues with the septic. Respondent did reimburse the Complainant their fee for the home inspection but notes that the condition of the home at the time of the inspection is out of the listing agent's control.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

10. **2023061141**

Opened: 1/8/2024

First Licensed: 1/21/2020

Expires: 1/20/2026

Type of License: Affiliate Broker

History: 2021 Letter of Warning regarding failure to exercise reasonable skill and care

Complainant alleges that Respondent is conducting a "land-flipping" or "wholesaling" class and lied to Complainant about the cost of the program, the time involved to succeed in the program, and is committing fraud. Complainant alleges they have paid Respondent almost \$30,000 for this class and access to its "mentorship" program and continued to incur costs that they will not recover to comply with the program requirements. Complainant provided multiple screen shots of Respondent advertising their "financial freedom through land investing" training for a fee. Complainant alleges fraud and has reported Respondent to law enforcement and the Office of the Attorney General.

Respondent stated they own and operate an "education business" in another state that coaches people on how to sell land for profit. Respondent stated that the business has "nothing to do with" their Tennessee state licensure.

Recommendation: Refer/follow up with the Office of Attorney General.

Commission Decision: The Commission accepted counsel's recommendation.

11. **2023064971**
Opened: 1/16/2024
First Licensed: 9/21/2006
Expires: 9/23/2024
Type of License: Principal Broker
History: None

Respondent is a licensee and was the listing agent for several properties owned by Respondent's deceased Parents. Complainant is the spouse of Respondent's sibling. Complainant alleges that Respondent forged signatures on listing contracts after they expired to keep them active on the MLS and to obtain the commission from any sales that took place after the contracts had expired. Complainant did not provide any documentation to support their initial complaint.

Respondent's attorney ("RA") responded on behalf of Respondent. RA stated that the Respondent, Complainant and Complainant's spouse are all actively contesting the Last Will and Testament of Parent, and that the litigation does not involve any of the real property that Respondent's Parents conveyed before their deaths. Respondent did handle several real estate transactions of behalf of their Parents and denies ever forging any documents or illegally altering contracts. RA provided documentation of the business relationship that existed between Respondent and Parents; the Will documents and Probate Court filings; the Listing Agreement at the center of Complainant's report; and deeds of properties owned and sold by Parents while Respondent was the listing agent. All documents appear to be in order.

Complainant submitted a rebuttal again arguing that the listing amendments were forged as "that is definitely not (Parent's) signature". Based on the information provided this matter is best left to the Probate Court which is already litigating the Will dispute between the two parties.

Recommendation: Dismiss.

Commission Decision: The Commission voted to close and flag this complaint.

12. **2024000631**
Opened: 1/16/2024
First Licensed: 1/23/2018
Expires: 1/22/2026
Type of License: Affiliate Broker
History: None

Complainant was selling their home, and Respondent/licensee is the adult child of Complainant's spouse. Complainant alleges that Respondent was to be the listing agent for their home, and that Respondent was the only one in the family that they talked about their plans to sell the home. Complainant alleges that Respondent told other family members, who then harassed Complainant and their spouse. Complainant alleges Respondent did not provide reasonable skill and care and violated their confidence.

Respondent denied any wrongdoing and denied that they were ever the listing agent for this property. Respondent stated that there was no representation agreement in place for the property in question, no fiduciary duty owed to the Complainant, and that the home was publicly advertised online as actively for sale when the events the Complainant alleges took place by others occurred. Respondent stated that they should not be held responsible for the potentially criminal acts of third parties. Complainant provided a rebuttal, stating that the Respondent was already their agent for at least two other properties, and alleges that the family members who did harass them had no way of knowing about this particular property without being told by Respondent. Based on the information provided there is insufficient evidence of a violation of the Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

13. **2023062261**
Opened: 1/16/2024
First Licensed: 3/16/2017
Expires: 3/15/2025
Type of License: Real Estate Firm
History: None

Complainant was selling their home and affiliate broker of Respondent was the listing agent. Complainant alleged that Respondent was working against Complainant interests by not conveying to Buyer that Complainant had changed their mind and did not want to sell their home. Complainant alleged that Respondent was "forcing" them to sell and had not conveyed the Mutual Release of Purchase and Sale Agreement to Buyer's agent.

Respondent's attorney ("RA") responded on behalf of Respondent. RA denied any wrongdoing and provided a timeline of events regarding the attempted sale of Complainant's home and property. Respondent listed the property for Complainant and successfully put the property under contract per the listing agreement. Later Complainant and their adult children informed Respondent that Complainant had decided that they would not be selling the property. Complainant's adult children told Respondent that Complainant "did not know" what they signed or that they agreed to sell the property. Respondent advised Complainant and Complainant's adult children that if their intent was to not comply with the executed Purchase and Sale Agreement that Complainant could be sued and advised them to seek legal representation. Respondent conveyed to Buyer's agent the next day that Complainant was not going to go through with the sale but refused Child's request to convey that Complainant was incompetent as Respondent had no basis for that assertion. Respondent provided copies of multiple emails between Respondent and Complainant and then Complainant and their children detailing the attempted sale and communication with the Buyer's agent.

Based on the information provided there is insufficient evidence and violation of the *Broker Act* or Commission Rules.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

14. **2024001301**

Opened: 1/22/2024

First Licensed: 11/1/2019

Expires: 10/31/2025

Type of License: Affiliate Broker

History: None

This complaint is related to REC-2024001331 (#15).

Complainant is a real estate investor/house flipper, Respondent was buyer's agent. Complainant alleges that Respondent negotiated in bad faith and presented false lender/appraiser requirements to have unnecessary repairs done on the home. Complainant alleges that Respondent's actions delayed closing for over a month and caused financial hardship for the Complainants. Complainant provided what appear to be copies of emails between Complainant's manager and Respondent (Complainant's agent is also copied) detailing requests for information regarding repairs and what seem to be timely replies by Respondent explaining what was needed.

Respondent denied any wrongdoing and stated that all extensions to the closing were agreed to by all parties. Respondent provided a copy of an email wherein they explicitly asked Complainant's agent if Complainant wanted to still move forward with the sale despite the delay for repairs and was told "yes". Respondent stated that all information requested by Complainant's agent was provided in a timely fashion and they could not comment on why Complainant alleges they did not receive the requested information. Ultimately the loan underwriter's requirements regarding the

repairs were met and the closing took place although funds were delayed because of a disbursement issue on the part of the title company selected by the Complainant.

Based on the information provided there is insufficient evidence and violation of the *Broker Act* or Commission Rules.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

15. **2024001331**
Opened: 1/22/2024
First Licensed: 7/14/2003
Expires: 3/16/2026
Type of License: Affiliate Broker
History: None

This complaint is related to REC-2024001301 (#14).

Complainant appears to be alleging that Respondent (their listing agent) worked in concert with Buyer's agent and negotiated "in bad faith".

Respondent stated that the home was initially under contract with a different buyer when a termite inspection revealed extensive damage. Respondent advised Complainant that the damage would have to be repaired and/or disclosed to any subsequent potential buyer. Respondent stated that they disclosed the issue to the buyer's agent, who submitted an amendment adding closing costs and repair costs after the inspection period had passed. Respondent advised they did not have to sign the amendment, but Complainant choose to move forward. Respondent stated they timely advised Complainant of all communications with Buyer's agent and provided copies of emails, the contract and amendments all executed by the Complainant.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

16. 2024001381
Opened: 1/22/2024
First Licensed: 4/26/2018
Expires: 4/25/2024
Type of License: Real Estate Firm
History: None

Complainant is the owner of a residential property; Respondent was contracted to be their property manager. Complainant alleges that in the three months since contracting with Respondent they have done nothing to prepare the home or market it to potential renters. Complainant also alleges that Respondents have charged them for work they have not done and that there were items stolen from the home while it was under Respondent's management. Complainant stated that Respondent "defrauded me by acting as agents who wished to assist me in getting my home rented. To the contrary, I have come to believe that this never had been their intention and they wanted to acquire my property by driving me to foreclosure." Complainant provided copies of emails between the parties that included a list of repairs that Complainant sent to their own handyman; the Property Management Agreement; invoices for work done on the property; and a Demand Letter for costs incurred because of "breach of contract". Complainant alleges fraud, negligence, and breach of contract.

Respondent stated that the Complainant contracted their services and then left the country five days later, leaving a property that "was full of personal items, a garage completely full, laundry in the W/D units, trash in trash cans, and a donation pile which we said we could try and help get removed. There was also a lengthy punch list that she had given to her hired handyman to complete." The home was not ready to be marketed, according to Respondent, and Complainant also asked for a rental amount higher than what Respondent calculated was market rate. Respondent also wanted to make clear that "The accusation that we were trying to drive (Complainant) into foreclosure is absurd. This is the first time I have ever heard that accusation and we never had any kind of conversation about (Complainant's) mortgage payments, foreclosure, acquisition, selling, etc. - nothing of the kind."

This matter primarily appears to be a contract dispute between the parties and is outside the jurisdiction of the Commission.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

17. **2024000471**
Opened: 1/29/2024
First Licensed: 1/19/2021
Expires: 10/19/2024
Type of License: Principal Broker
History: None

This anonymous Complainant alleges Respondent was collecting and disbursing rents while their license was active "under a different company".

Respondent denied the allegations and stated that they did not collect rent or distribute rent to owners prior to the issuance of their license. As there is no evidence to the contrary, Counsel recommends that the complaint be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

18. **2023064031**
Opened: 2/5/2024
First Licensed: 9/22/1995
Expires: 11/29/2025
Type of License: Affiliate Broker
History: 2017 Consent Order for earnest money violation

Complainants were owners of a home that Respondent was contracted to market to prospective tenants and manage. The “Market for Lease Agreement” required a security deposit of \$2000, but Respondent entered into a lease agreement with tenants requiring only a \$500 security deposit. Complainant alleges that in February 2023 tenants moved out of the home and left it in very poor condition. Complainant alleges they were not notified about the reduction in the security deposit and would have never agreed to it; that Respondent did not provide them with a copy of the lease agreement; and that despite repeated requests to contact the tenants about the condition of the property observed by Complainant, Respondent did not do so. Once the tenants moved out Complainants demanded the full security deposit due to the damage to the home and Respondent refused to provide it. Complainant eventually sued Respondent for failure to disburse the security deposit and was awarded the amount of the deposit plus court cost in December 2023.

Respondent’s attorney (“RA”) responded on Respondent’s behalf. RA confirmed that they only collected a \$500 security deposit and confirmed that the Complainant was awarded by the Court the full \$2000 security deposit plus court costs. RA stated that Respondent monitored the property as required and provided copies of attempts to have tenants comply with the terms of the lease and notice that the lease would not be renewed. As to improperly withholding funds, RA respectfully submits that the Complainant has been made whole by the court decision and that no further action by the Commission is justified.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession that belong to others in violation of T. C. A. § 62-13-312(b)(6).

Commission Decision: The Commission voted to authorize a formal hearing and issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.

19. 2023064091
Opened: 2/5/2024

Unlicensed
History: None

Complainant is the owner of a time-share. Complainant alleges they entered into an agreement with Respondent and Respondent's company to sell their remaining interest in the time-share. Respondent directed them to make their remaining payments to a certain bank, "confirmed" that the funds would be held in escrow, and assured Complainant once the funds were deposited that a buyer would wire purchase funds to the Complainants. Once Respondent had Complainant's funds, Complainant alleges they have now stopped responding to Complainant's calls and emails, and Complainant has not been able to sell their time-share interest. Complainant has been communicating with the Office of the Attorney General and law enforcement.

Respondent did not respond to repeated attempts to contact them.

Recommendation: Follow up referral to Office of the Attorney General.

Commission Decision: The Commission voted to accept counsel's recommendation.

20. **2024001701**
Opened: 2/5/2024
First Licensed: 10/22/2021
Expires: 10/21/2025
Type of License: Affiliate Broker
History: None

This is an anonymous complaint. Complainant alleged that Respondent's license expired 10/21/2023 yet Respondent continued to actively list homes and closed on at least one property in January 2024 while their license was still expired.

Respondent asked that the complaint be dismissed "because I was not aware that my license had expired until the complaint was filed and the issue was immediately remedied as soon as it was discovered."

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.

Commission Decision: The Commission accepted counsel's recommendation.

21. **2023065761**

Opened: 2/12/2024

First Licensed: 7/27/2007

Expires: 7/26/2025

Type of License: Real Estate Firm

**History: 2023 Consent Order for failure to respond to a complaint;
2023 Consent Order for failure to respond to a complaint**

Complainant is a licensee and former employee of Respondent, who operates a timeshare/vacation sales firm. Complainant is alleging ongoing unlicensed activity by Respondent's employees. Complainant supplied pictures of what appears to be a "seller's board" of what Complainant alleges are unlicensed agents and their sales for various months.

Respondent stated that upon receiving notice of the complaint they immediately conducted an audit to review the current license status of the employees through their own records and compared/confirmed their information against the Commission license portal. All the sales representatives (including those named by Complainant) are properly licensed. Counsel reviewed several of the names personally to confirm they match active licensees. There is no evidence of a violation of Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

22. **2023065861**
Opened: 2/12/2024
First Licensed: 7/6/2021
Expires: 7/5/2025
Type of License: Real Estate Firm
History: None

Complainant alleged that Respondent was their listing agent for the sale of their deceased father's home and did not provide competent services. The named Respondent stated that they were not the listing agent and have had no communication at all with Complainant. Based upon their own review the named Respondent has determined who the correct Respondent should be and forwarded that information to the Commission.

Recommendation: Dismiss; open complaint against proper respondent.

Commission Decision: The Commission voted to accept counsel's recommendation.

23. **2024001891**
Opened: 2/21/2024

First Licensed: 6/21/2017
Expires: 6/20/2025
Type of License: Affiliate Broker
History: None

Complainant was a seller; Respondent was their agent. Complainant's complaint was unclear but seemed to be alleging a lack of reasonable skill and care in that Respondent did not tell them that an inspector found a gas leak at their home until weeks after the inspection.

Respondent confirmed that they were Complainant's agent; that the home was under contract and that Respondent's broker was now handling all aspects of Complainant's sale. Regarding the gas leak notification, Respondent stated that a few days after the home inspection, the Buyer's agent texted Respondent to ask what had been done about the "potential gas leak", which is the first that Respondent knew of the issue. Respondent stated they immediately reached out to Complainant via phone and email.

Based on the information provided Counsel recommends the complaint be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

24. **2024003951**
Opened: 2/26/2024
First Licensed: 8/7/1972
Expires: 10/19/2024
Type of License: Principal Broker
History: 2019 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complainant was a seller; Respondent was their agent. Complainant alleged that Respondent was not working in Complainant's interests and is "forcing my home to go into foreclosure purposely". Complainant also alleged that Respondent did not explain that their agency agreement was for a six-month term; that Respondent refuses to answer their questions; and that the Respondent "lied" about the amount of the counteroffer they made to an offer to purchase. Complainant states they will now have to sell their home for a price less than what they owe due to the actions of the Respondent.

Respondent denied any wrongdoing and provided copies of the executed Seller Agency agreement where the term length is clearly stated on the first page along with the listing price of Complainant's property; the confirmation of agency status signed by the parties; the offer referenced by the Complainant along with the counter by the Complainant wherein the proposed selling price is clearly stated and is signed by the Complainant; and the listing cancellation agreement executed by the parties. Respondent also provided almost one hundred pages of text messages between the parties that show a quickly deteriorating relationship, with Complainant at times sending Respondent ten texts in less than ninety seconds. Based on the information provided there is insufficient evidence of a violation of Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

25. **2024004791**
 Opened: 2/26/2024
 First Licensed: 1/20/2015
 Expires: 1/19/2025
 Type of License: Affiliate Broker
 History: None

Complainant was a seller of three residential properties; Respondent was their listing agent. Complainant alleged that Respondent presented an offer on one of the

properties and assured Complainant the buyer had proof of funds when in fact the Respondent did not have that information. Complainant also alleged that Respondent waited until the last minute to tell Complainant they needed to provide a washer and dryer for one of the units, and that due to Respondent's negligence the "deal almost fell through". Complainant alleges that Respondent was negligent and did not provide reasonable skill and care.

Complainant provided copies of texts between Complainant and Respondent which show that there was a discussion about the washer and dryer and makes clear it was part of the agreement that Complainant executed. Texts also show that Respondent confirmed they had been provided with proof of funds by Buyer.

Respondent denied the allegations. Respondent stated the Buyer's pre-approval letter was provided with the offer that Complainant accepted, as well as the agreement that the Complainant provide a washer and dryer. An extension of the closing was agreed to by the Complainant. Respondent provided copies of the transaction documents, and all appear to be in order. Based on the information provided there does not appear to be a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

26. **2024004801**
Opened: 2/26/2024
First Licensed: 1/20/2015
Expires: 1/19/2025
Type of License: Affiliate Broker
History: None

Complainant was a seller of a residential property; Respondent was the listing agent. Complainant alleged that Respondent was told to remove the property listing from the MLS on December 28, 2023, and Respondent initially complied. On January 26, 2024, Complainant alleges Respondent re-listed the property on the MLS without

notifying the Complainant. Complainant contacted Respondent via text message and again instructed them to remove the listing. Respondent allegedly declined to do so unless a fee of \$2500 was paid by Complainant. Respondent replied they had confirmed with the broker that the listing agreement was valid through the end of May, and that they knew Complainant was canceling the listing because they had “a better deal” through their builder. Complainant did not dispute that assertion but stated that the Respondent had been rude and “made mistakes.”

Respondent stated they put the listing on “hold” on December 28, and did not realize that the system only allows a thirty-day hold and then automatically reverts to “active”. Respondent stated that their listing broker manager stated that they would release the seller early from the listing agreement if expenses already incurred for marketing the property were paid, which totaled \$2445. The parties ended up executing a mutual release a few days later with no charge and the listing was withdrawn from the MLS. The listing agreement signed by Complainant does provide that if the Broker agrees to release the listing prior to the expiration of the term that the Seller agrees to pay all costs incurred by Broker to market the property. While communication seems to be an issue for both parties in this deteriorating relationship, there does not appear to be a violation of the Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

27. 2024004821

Opened: 2/26/2024

First Licensed: 7/25/2005

Expires: 7/24/2025

Type of License: Affiliate Broker

History: 2023 Consent Order for advertising violation

Complainant reported that Respondent made a comment on social media that was “gross and racist and wrong”. Respondent denied any wrongdoing and stated that

they are “definitely not a racist”. Counsel reviewed Respondent’s comment and it was not a violation of the Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

28. **2024004851**
Opened: 2/26/2024
First Licensed: 1/6/2017
Expires: 1/5/2025
Type of License: Real Estate Broker
History: None

This complaint is related to REC-2024004801 (#26).

Respondent denied telling anyone to list the property against the Complainant’s wishes. Respondent stated that they did not initially know the listing automatically reverted to “active” after thirty days, and that once they realized they again put the listing on “hold” while they discussed the listing release with the Complainant. Respondent and the listing agent confirmed the contractual term did not end for several months and determined that the marketing costs were due from the Complainant.

For the reasons stated above, Counsel recommends dismissal of the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

29. **2024005271**
Opened: 2/26/2024
First Licensed: 6/9/2006

Expires: 6/8/2024

Type of License: Affiliate Broker

History: None

Complainant was a seller, Respondent/licensee was a potential buyer. Complainant alleged that Respondent and spouse (also a licensee) attended a showing of Complainant's home and made an offer without ever disclosing that they were licensees and were purchasing the property for themselves. Complainant alleges they only became aware of the lack of disclosure when they noticed the name of the buyer on the offer documents was the same as the Respondent.

Respondent confirmed that they did place on an offer on Complainant's home, and provided a copy of the personal interest disclosure form signed by both Respondent and their spouse that accompanied the offer submitted to Complainant's agent, along with a copy of the email from Complainant's agent confirming receipt. Respondent stated they can only assume that the offer was forwarded to Complainant without the disclosure form by their agent, and they deny any wrongdoing.

Recommendation: Dismiss.

Commission Decision: The Commission voted to accept counsel's recommendation.

30. **2024003661**

Opened: 2/26/2024

Unlicensed

History: None

Complainant was a buyer of a home listed by an agent of what appeared to be Respondent firm. The "firm" is operated by a licensed affiliate broker of a separate licensed firm. Recommend dismissal and administratively open complaints against affiliate licensee; unlicensed agent who stated that they represented seller; and principal broker of affiliate for failure to supervise.

Recommendation: Dismiss and administratively open complaints against affiliate licensee; unlicensed agent who stated that they represented seller; and principal broker of affiliate for failure to supervise.

Commission Decision: The Commission voted to accept counsel's recommendation.

CASES TO BE REPRESENTED:

31. **2023004861**
Opened: 2/13/2023
First Licensed: 5/17/2022
Expires: 5/16/2024
Type of License: Affiliate Broker
History: None

Complainant and Respondent were romantic as well as business partners on the renovation and planned sale of a home. Both parties verbally agreed to how the costs of the purchase and renovation would be financed. As a licensee, it was agreed that Respondent would be the agent for the sale of the home. The property was eventually listed for sale but with Complainant's adult child as the co-listing agent. Complainant alleges that when their romantic relationship ended, Respondent acted in a vindictive manner and demanded a full commission prior to the home being sold; then tried to hamper the final closing of the sale at the detriment to all involved. Complainant has since filed a lawsuit against Respondent and Respondent's firm alleging monetary damages for breach of contract, breach of fiduciary duty and defamation and slander.

Respondent denied all of Complainant's accusations and accused Complainant of illegally denying Respondent their portion of the expenses paid into the property and their commission. As this matter involves both alleged violations of *the Broker Act* that are already subject to litigation, Counsel recommends Litigation Monitoring.

Recommendation: Litigation Monitoring.

Commission Decision: The Commission voted to accept counsel's recommendation.

New Information: Court matters have been resolved in Complainant's favor with a finding that Respondent attempted to extort their commission fee from Complainant by threatening criminal charges if they were not paid immediately. Respondent appears to be in violation of Tenn. Code Ann. § 62-13-403(4) that requires licensees to provide services to each party of the transaction with honesty and good faith.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to authorize a formal hearing and issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(4), failure to provide services to each party of the transaction with honesty and good faith.

32. 2021023471

Opened: 3/29/2021

Unlicensed

History: None

The Complainant is a Tennessee resident, and the Respondent is an unlicensed real estate firm.

The Complainant alleges he was contacted from an individual from Indianapolis, Indiana on March 22, 2021, and the individual stated that he had been contacted the Complainant for several weeks to purchase a property in Mexico. The individual provided all the information that had been given to the individual including the Complainant's license number. The Complainant had never spoken to the individual and was surprised about all the information the individual had about the Complainant. The Complainant googled the phone number, and it came (to a website with a phone) number that was listed as the phone number (for Respondent). The Complainant contacted the number and got the voicemail message for the Complainant. The Complainant alleges the Respondent is using the Complainant's license.

The Respondent did not provide a response to the Complaint.

Recommendation: Authorize a contested case proceeding and settlement by Consent Order with payment of a civil penalty in the amount of One Thousand Dollar (\$1,000.00) for engaging in or conducting real estate business without a license in violation of Tenn. Code Ann. § 62-13-301.

Commission Decision: The Commission voted to accept counsel's recommendation.

New Information: Current counsel has been unable to confirm the actual identification of Respondent named in the original Complaint. An individual named by the Complainant as the owner of a then-similarly named firm denied having any knowledge of the phone calls and does not know the Complainant/licensee. Since this complaint was opened local law enforcement has issued multiple warnings of real estate investment scams using the same non-existent firm name. It appears to counsel that both the Complainant and the individual named by Complainant were possible victims of identity theft.

New Recommendation: Close and flag

New Commission Decision: The Commission accepted counsel's recommendation.

Aerial Carter

New Complaints:

- 33. 2023059301**
Opened: 12/11/2023
First Licensed: 2/13/2018
Expires: 2/12/2026

Type of License: Affiliate Broker

History: None

This complaint was administratively opened. The Respondent is an Affiliate Broker. The original complaint, REC-2023034631, was opened against the Respondent's Principal Broker and presented during the legal report on October 5, 2023, and was dismissed because it was determined that they were not the proper Respondent.

Complainant is a Tennessee resident and a home buyer. Respondent is a Principal Broker. Complainant alleges that they were asked if they wanted to purchase what they believed to be a kiln. They stated they did not need a kiln and declined the purchase. After the sale for the property, Complainant found out that the kiln was a wood burning furnace but did not work. Complainant also stated that there were outside water pipes that had frozen and split and the kitchen floor was destroyed but neither the Seller nor Listing Agent disclosed the information.

The response stated that Complainant purchased the home without a home inspection and the Seller used a stand-alone HVAC unit. Respondent denied that they or the Seller failed to disclose any information. The respondent stated that the Seller never used the wood burning furnace but used the gas furnace in the home that worked up until the day of closing.

Counsel reviewed the documents included and did not see where the Complainant waived their inspection nor did the disclosure state there was an issue with the central heating.

Under Tenn. Code Ann. § 62-13-406(c), there shall be no imputation of knowledge or information among or between clients, the managing broker and any designated agent or agents in a designated agency situation.

There is not enough evidence to prove that the Respondent knew or should have known about the issues with the water pipes. However, it is not clear whether the Respondent needed to do more research to determine if the wood burning furnace was integral.

Based upon all these facts, Counsel recommends this matter be discussed to determine whether there was a violation by the Respondent for failing to do their due diligence.

Recommendation: Discuss.

Commission Decision: The Commission voted to dismiss the complaint.

34. 2023060561

Opened: 12/11/2023

First Licensed: 6/17/2005

Expires: 11/11/2024

Type of License: Principal Broker

History: 2011 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complainant is a Tennessee resident and prospective Buyer in a real estate transaction. Respondent is a Principal Broker but not directly involved in the real estate transaction. Complainant alleges Respondent should be responsible for their Affiliate's actions. The complaint states that they made an offer for a new construction home that was listed by the Affiliate. The Seller was also the contractor. The Complainant wrote a \$10,000 check for earnest money to the Seller but after the transaction fell through, the Affiliate and Seller refused to refund the earnest money.

Respondent stated they spoke with the Affiliate and Seller. A \$10,000.00 deposit was agreed upon and there was no contingency return of the deposit to the Complainant. The Respondent referenced the Purchase Agreement that stated "Buyer paying Seller 10,000 down" under special stipulations. The Affiliate also stated that they've worked with the Seller multiple times and the Seller has the buyer make checks out to them. The Respondent attached the Purchase Agreement, a disclaimer explaining "working with a real estate professional," and a Confirmation of Agency Status.

Counsel reached out to the Respondent to get additional information because it was unclear why the Seller would have the buyer send money to them directly when they are represented. A response was not provided.

Based on the information provided, it appears that the Complainant has an issue with the transaction because they believed the Respondent was a dual agent. This allegation is unfounded because the Agency Status form clearly shows that the Respondent represented the Seller, and the Complainant was unrepresented. This document is signed by all parties.

Ultimately, this appears to be a contract dispute and the Commission has no authority over this matter.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

35. 2023059061
Opened: 12/19/2023
First Licensed: 6/7/1998
Expires: 2/15/2026
Type of License: Affiliate Broker
History: None

Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35), REC-2023059051 (#37), are related and stem from the same real estate transaction. Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35) contain identical allegations.

The complaint was submitted by an attorney on behalf of the Complainant, who is a Tennessee resident and was a prospective buyer in a real estate transaction. Respondent is an Affiliate Broker and represented the Seller. Complainant alleges that the Respondent, their Principal Broker, and the Buyer's Agent acted dishonestly by providing false information, attempted to coerce the Complainant to go forward with the transaction after termination, and engaged in the unlawful practice of law. The Complainant stated that they wanted to terminate their contract with the Seller due to the financial institute not approving their loan. The Respondent told them that if they chose to terminate the contract, they would be in breach and the Complainant believed it was coercive. The complaint also alleged that the Respondent does not have the authority to discuss legal terms and when they threatened a potential lawsuit, the Respondent engaged in the unauthorized practice of law.

The Respondent denied all allegations and provided a timeline of events. The Respondent stated that the Complainant was approved for the loan and had provided proof but when the Respondent wanted to transfer loan servicers, they asked for additional proof of funds. The Respondent denied pressuring anyone. When they became aware that the Complainant didn't want to go forward with the transaction without a valid reason, they advised the Complainant's agent that their client could be in violation of a breach of contract.

Both parties submitted multiple documents. Counsel reviewed the documents. Based on the information provided, Counsel finds Complainant's allegations related to ethical violations, coercive actions, and unauthorized practice of law to be unfounded.

The approval letter showed that the Complainant had been approved yet the Complainant stated the reason they wanted to terminate was due to financing not being secured. Therefore, there was not a valid reason to terminate the contract and the Respondent could pursue action for breach of contract. Additionally, stating that

the Complainant was in violation does not amount to the unauthorized practice of law.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 36. 2023059071**
Opened: 12/19/2023
First Licensed: 5/9/2002
Expires: 12/31/2024
Type of License: Principal Broker
History: 2018 Consent Order for failure to respond

Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35), REC-2023059051 (#37), are related and stem from the same real estate transaction. Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35) contain identical allegations.

The complaint was submitted by an attorney on behalf of the Complainant, who is a Tennessee resident and was a prospective buyer in a real estate transaction. Complainant alleges that the Respondent, their Affiliate Broker, and the Buyer's Agent acted dishonestly by providing false information, attempted to coerce the Complainant to go forward with the transaction after termination, and engaged in the unlawful practice of law. The Complainant stated that they wanted to terminate their contract with the Seller due to the financial institute not approving their loan. The Respondent told them that if they chose to terminate the contract, they would be in breach and the Complainant believed it was coercive. The complaint also alleged that the Respondent does not have the authority to discuss legal terms and

when they threatened a potential lawsuit, the Respondent engaged in the unauthorized practice of law.

The Respondent denied all allegations and provided a timeline of events. The Respondent stated that the Complainant was approved for the loan and had provided proof but when the Respondent wanted to transfer loan servicers, they asked for additional proof of funds. The Respondent denied pressuring anyone. When they became aware that the Complainant didn't want to go forward with the transaction without a valid reason, they advised the Complainant's agent that their client could be in violation of a breach of contract.

Both parties submitted multiple documents. Counsel reviewed the documents. Based on the information provided, Counsel finds Complainant's allegations related to ethical violations, coercive actions, and unauthorized practice of law to be unfounded.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

37. 2023059051
Opened: 1/8/2024
First Licensed: 4/1/2015
Expires: 3/31/2025
Type of License: Affiliate Broker
History: None

Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35), REC-2023059051 (#37), are related and stem from the same real estate transaction. Complaint numbers REC-2023059071 (#36), REC-2023059061 (#35) contain identical allegations.

The complaint was submitted by an attorney on behalf of the Complainant, who is a Tennessee resident and was a prospective buyer in a real estate transaction. Respondent is an Affiliate Broker and represented the Broker. Complainant alleges that the Respondent, the Seller's Broker, and the Seller's Agent acted dishonestly by providing false information, attempted to coerce the Complainant to go forward with the transaction after termination, and engaged in the unlawful practice of law.

Disclosing Confidential Information

The complaint also alleged that the Respondent disclosed confidential information without their permission. When the Complainant advised the Respondent that they would like to terminate their contract, the Respondent did not write on the termination request was due to failing to obtain financing. Instead, they wrote that the termination was "due to being mentally unstable and unfit to continue with the transaction." This made them feel embarrassed and told the Respondent that they had mental health issues that shouldn't have been disclosed to the other party.

The Respondent submitted a response via their Attorney. The Respondent stated the Complainant sent an email stating that they would not be paying the commission or fees and would not purchase the property due to mental health reasons and simply conveyed the message to the Seller's agent. The Respondent further stated that the Complainant signed off on the notification form and mutual release that indicated the reason was due to mental instability.

As stated in the related cases, proof of approval was attached and showed that it was sent prior to the request to terminate the contract. When the Complainant attempted to switch lenders, the denial letter as provided.

Based on the information provided, there is no indication that the Respondent disclosed confidential information in the termination documents as they were aware of the content and signed off on it.

Coercive/ Threatening Behavior

The Complainant stated that they wanted to terminate their contract with the Seller due to the financial institute not approving their loan. The complaint alleged that the Respondent sent them an email threatening that if they terminated the Agreement they would be defaulting on the contract, and that by doing such, they may be liable for accrued commissions, attorneys fees, court costs, transactions fees, damages, and/or actual judgment. The Complainant believed that the request for a commission and other fees was in retaliation because they wanted to terminate the contract.

The Respondent denied engaging in any coercive or threatening behavior. They just advised their client of the potential consequences of terminating the contract and all requests were based on the binding agreement signed by all parties.

Based on the information provided, Counsel finds Complainant's allegations related to coercive actions to be unfounded.

Unauthorized Practice of Law

The complaint also alleged that the Respondent does not have the authority to discuss legal terms and when they threatened a potential lawsuit, the Respondent engaged in the unauthorized practice of law.

When the Complaint stated they were no longer in the property, the Respondent was advised by the Seller's agent that their client intended on exercising their legal rights if the Complainant did not close on the property and informed the Complainant. The Respondent told the Complainant that they would be in violation if they did not go forward with the transaction. The Respondent stated that they did not attempt to provide legal advice, nor did they act as an attorney.

became aware that the Complainant didn't want to go forward with the transaction without a valid reason, they advised the Complainant's agent that their client could be in violation of a breach of contract.

Counsel finds Complainant's allegations related to unauthorized practice of law to be unfounded.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

38. 2023060491
Opened: 1/2/2024
Unlicensed
History: None

Complainant is a licensed agent. Respondent is unlicensed. The Complainant alleges Respondent engaged in unlicensed activity by advertising on social media that they

are a “good neighbor who will show a home in the neighborhood that's For Sale by Owner.” The complaint also alleged that the Respondent partnered with a title company who provided them with sales contracts and pays them a commission upon closing. The complainant admitted that they could not verify that the title company was providing commissions or contracts to the Respondent. A screenshot of the social media post was attached and a copies of blank purchase agreements.

The Respondent stated that the listings were for sale by owner and was done at the request of friends and/or neighbors that do not have social media. The Respondent stated that they only posted the listing to promote their friend’s listing and didn’t act as a real estate professional. The Respondent stated that they have not worked with any title company, received any commission, or negotiate any part of the contract for any party. The Respondent stated that they have sold multiple of properties they owned and provided some of the contracts used to their neighbors.

Counsel reviewed the screenshot from social media, and it did not include the address so Counsel was unable to confirm who owned the property, but based the Respondent’s response, it can be assumed they did not own the property. The post did not clarify what the Respondent’s role was. The purchase agreements were basic forms that anyone could obtain. Counsel also reviewed the title company the Complainant alleged that the Respondent was working with and could not find any connection or affiliation with the Respondent.

Based off the information provided, there was not enough evidence to suggest that the Respondent received or intended to receive any fee, commission, finders fee, or any other valuable consideration. I cannot be clearly determined that the Respondent engaged in unlicensed activity because they were not receiving any valuable consideration. Additionally, when the Complainant attempted to contact the title company to find a relationship between the parties, the Respondent was not mentioned. Therefore, Counsel recommends that this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2023060891

Opened: 1/2/2024

First Licensed: 3/17/1998

Expires: 3/8/2023 (Expired)

Type of License: Principal Broker (Errors & Omissions Suspension as of 1/31/2023)

History: None

Complaint numbers REC-2023060891 (#39) and REC-2023060861 (#40) are related and contain identical allegations.

The complaint was submitted by an attorney on behalf of the Complainant, who is an out of state company. The Respondent has an expired license. The Complainant alleged that the Respondent listed a tract of land without the owner's permission.

The Respondent submitted a response stating that they have been an out of state resident for years. The Respondent stated that they have had severe health issues and no idea that their name was on any listing.

Counsel reviewed the listing. The address was for a tract of land that was out of state. Counsel also reviewed the Respondent's website and they do not advertise their services in Tennessee. Based on the information provided, the Commission doesn't have authority over this matter because the alleged violations didn't occur in Tennessee.

Counsel recommends that this matter be dismissed due to lack of jurisdiction.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

40. 2023060861
Opened: 1/2/2024
First Licensed: 3/16/1998
Expires: 10/19/2022 (Expired)
Type of License: Real Estate Firm
History: None

Complaint numbers REC-2023060891 (#39) and REC-2023060861 (#40) are related and contain identical allegations.

The complaint was submitted by an attorney on behalf of the Complainant, who is an out of state company. The Respondent has an expired license. The Complainant alleged that the Respondent listed a tract of land without the owner's permission.

The Respondent submitted a response stating that they have been an out of state resident for years. The Respondent stated that they have had severe health issues and no idea that their name was on any listing.

Counsel reviewed the listing. The address was for a tract of land that was out of state. Counsel also reviewed the Respondent's website and they do not advertise their

services in Tennessee. Based on the information provided, the Commission doesn't have authority over this matter because the alleged violations didn't occur in Tennessee.

Counsel recommends that this matter be dismissed due to lack of jurisdiction.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2023063221
Opened: 1/2/2024
First Licensed: 10/30/1979
Expires: 2/23/2025
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident and Buyer in a real estate transaction. Respondent is a Real Estate Broker and was the Seller's agent. Complainant alleges that the Respondent falsely advertised the condition of the property that was supposed to be restored, but the property was in horrible condition. The complaint included a long list of the defects the Complainant found. The Respondent's significant other worked for a company who renovated the property and believes they should be liable.

Respondent stated that the Complainant saw the property and after the inspection the parties moved on to the appraisal and later a final walkthrough. During all these stages, the Complainant approved of the condition of the property and did not mention any of the items listed in the complaint. The Respondent attached a copy of the final inspection paperwork that was signed by all parties, a copy of the property listing, and a certificate showing the property passed inspection.

The complaint did not allege that the Respondent was involved in the renovation other than the personal connection. Additionally, there is no indication that the Respondent misrepresented the condition of the property. Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2023059911
Opened: 1/16/2024
First Licensed: 11/20/2013
Expires: 11/19/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant stated Respondent has promoted a document to that offered a rebate in cash to buyers if they met the qualifications.

Respondent stated they were part of an employee discount page that assists with their commissions. The Respondent attached a screenshot of their enrollment in the program.

Based on the information provided, it is unclear what the alleged violations were since the parties were not involved in a transaction involving commissions. However, the Commission does not have authority over commissions. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2023064681

Opened: 1/16/2024

First Licensed: 6/24/2011

Expires: 11/18/2024

Type of License: Principal Broker

History: 2017 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2018 Consent Order for failure to exercise reasonable skill and care; 2019 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complainant is a Tennessee resident and was the Buyer in a real estate transaction. Respondent is a Principal Broker. The complaint stated that the ad for land stated it had water, power, and internet. Complainant stated that they the power wasn't put in and they wanted to cancel the contract. Complainant also requested that the Seller refund them \$2,000 that they previously paid to have a gravel pad installed on the land. The Complainant alleged that the Respondent breached their contract. The complaint had a page of the purchase agreement, a letter from the Complainant's attorney, and plat maps of the property.

Respondent stated they were not involved with the transaction and the Respondent added them "because of their ignorance in the matter" and to slander them.

Counsel reviewed the documents attached and neither the Respondent nor their firm is mentioned. It does not appear that the Respondent was involved, and the issue is with the Seller and/or the Buyer's Agent. Based on this information, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

44. 2024000671
Opened: 1/22/2024
Unlicensed
History: None

Complainant is a Tennessee resident. Respondent is unlicensed. Complainant alleges that the Respondent runs a private group on social media that advertises "off market property." The Complainant noticed a post for the sale of a fourteen-unit apartment building and believed it was it was the property they owned. The complaint alleges that the Respondent constantly takes properties off MLS and markets them as if they have contractual interest in them. The complaint did not have any documents attached nor did they have any specific details about the property alleged.

The response stated that the Respondent stated that their business is twofold. The first part is that they contract to buy investment properties. The second is they provide information to other investors about potential investment opportunities.

Based on the information provided, the complaint did not have enough information and Counsel couldn't do a complete investigation. Counsel attempted to find the private social media group, but the name was so generic that they couldn't determine which group the complaint referred to. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

45. 2024001191
Opened: 1/22/2024
Unlicensed
History: None

Complainant is a Tennessee resident and licensed real estate professional. Respondent is an out of state resident and unlicensed. Complainant alleges Respondent engaged in unlicensed activity when they received two emails making offers on properties the Complainant listed. The Complainant was concerned due to the terms and believed it could potentially be a scam.

Respondent stated they were making an offer on the property and did not advertise as a real estate agent.

Counsel finds Complainant's allegations related to unlicensed activity to be unfounded. The Respondent is not required to be licensed to make an offer to purchase property.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

46. 2024000171
Opened: 1/29/2024
First Licensed: 2/12/2008
Expires: 2/21/2026
Type of License: Affiliate Broker
History: None

Complainant is a real estate professional. Respondent is an Affiliate Broker. The Complainant alleged that the Complainant worked for the Respondent and was fired although they followed all the rules set by the Respondent. The Complainant alleged that the Respondent owes them commissions.

Respondent stated that the Complainant was fired due to multiple customer complaints and non-compliance with the firm's policies. The Respondent denied that they withheld commissions from the Respondent.

Tenn. Comp. R. & Regs. 1260-02-.02(8) states that "the Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates." Therefore, Counsel recommends this matter be dismissed because the Commission does not have authority over this matter.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

47. 2024002481

Opened: 2/5/2024

First Licensed: 6/19/2017

Expires: 6/18/2025

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and prospective Buyer. Respondent is an Affiliate Broker. The complaint stated that in 2021, they looked at priced lots and learned that the Respondent had purchased the property and stated that they offered \$20,000 over asking price. Complainant alleges Respondent used their credentials as a realtor to purchase the lot for personal gain.

Respondent stated that they saw the lot and purchased it with their partner. They did not use any information as a real estate professional to gain an advantage in the offer price. They stated when they purchased the lot, they put down \$30,000 as a down payment and financed the rest.

Both parties stated that the lots had a set price and there were no negotiations permitted. Additionally, it appears that the only connection the parties had was that they both had interest in the same lot. The Respondent did not represent the Complainant and the Complainant only learned of that the lot was sold after talking to the Seller.

Based on the information provided and the age of the case, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

**48. 2024002771
Opened: 2/5/2024**

First Licensed: 6/17/2005

Expires: 11/11/2024

Type of License: Principal Broker

History: 2011 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complaint numbers REC-2024002781 (#49) and REC-2024002771 (#48) are related and contain identical allegations.

Complainant is a Tennessee resident and prospective Seller in a real estate transaction. The Respondent is a Principal Broker. Complainant alleges Respondent and their Affiliate acted maliciously by terminating the contract to return earnest money to the Buyers.

Respondent stated they were not involved in the sale, but their Affiliate was involved and represented the prospective Buyer. Their understanding of the agreement was that the sale was contingent on the sale of the Buyer's property. When the agreement expired for the Buyer, they pulled their home off the market and asked for a return of the earnest money. The Complainant did not mention they had an issue with the earnest money being returned.

The Respondent attached a copy of the agreement to release the earnest money deposit and it was signed by all parties.

Based on the information provided, the Respondent was not involved in the transaction. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

49. 2024002781

Opened: 2/5/2024

First Licensed: 5/20/2021

Expires: 5/19/2025

Type of License: Affiliate Broker

History: None

Complaint numbers REC-2024002781 (#49) and REC-2024002771 (#48) are related and contain identical allegations.

Complainant is a Tennessee resident and prospective Seller in a real estate transaction. The Respondent is an Affiliate Broker. Complainant alleges Respondent and their Principal Broker acted maliciously by terminating the contract to return earnest money to the Buyers.

The Respondent provided a timeline of events regarding the real estate transaction. The agreement was contingent on the sale of the Buyer's property. The Respondent represented the Buyer in the sale of their home and the purchase of the home mentioned in the complaint. The Buyer was not able to sell their home and they removed the listing. The Buyer asked to terminate the agreement with the Complainant in accordance with the contingency.

The Respondent attached a copy of the agreement to release the earnest money deposit and it was signed by all parties.

Counsel finds Complainant's allegations related to acting in a malicious way that violated the duty to all parties to be unfounded. The Respondent was looking out for their client's interest and was entitled to request a return of the earnest money. Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

50. 2024003541

Opened: 2/5/2024

First Licensed: 3/14/2012

Expires: 3/13/2026

Type of License: Real Estate Firm

History: None

Complainant is an out of state resident. Respondent is a Real Estate Firm. Complainant was a tenant, and the Respondent managed the property. The complaint alleges Respondent did not return rent to them and expressed dissatisfaction with the Respondent's management. The complaint was filed to get the amount due to them.

Respondent stated that they followed all the procedures for terminating the Complainant's lease. They stated that the Complainant was working with a housing assistance program that assisted with rent payments. The Complainant failed to recertify in time and was responsible for the full rent. They deny refusing to return money owed to the Complainant.

Based on the information provided, this matter is better suited for civil court as a landlord- tenant dispute. Additionally, the Commission does not have the authority to return money to the Complainant.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

**51. 2024003751
Opened: 2/5/2024**

Unlicensed

History: None

Complainant is a Tennessee resident and licensed real estate professional. Respondent is a unlicensed. Complainant alleges Respondent and two others engaged in unlicensed activity by soliciting property management services for short term rentals without the proper license. The complaint had a copy of the advertisement attached.

The Respondent submitted a response stating that they spoke with TREC and "got everything sorted, the application is being processed."

Counsel reviewed the attached document. Based on the information provided, the Respondent was engaged in unlicensed activity when they solicited their services as a property management group without having the proper license.

Counsel recommends this matter be the Respondent be assessed a civil penalty in the amount of One Thousand Dollars (\$1,000) for a violation of Tenn Code Ann. §62-13-301 and cases be administratively opened against the other individuals engaged in unlicensed activity.

Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn Code Ann. §62-13-301.

Commission Decision: The Commission accepted counsel's recommendation.

52. 2023062621
Opened: 2/12/2024
First Licensed: 5/15/2015
Expires: 7/20/2025
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident. Respondent is a Real Estate Broker. The Complainant alleges Respondent posted an ad on social media that did not provide the firm name or phone number, in violation of the advertising rules. The complaint had a screenshot of the social media post.

Respondent stated that they did not make the post, nor did they live at the property mentioned in the post.

Counsel reviewed the social media post, but it did not include the name of the individual who posted. There was a link in the post that Counsel looked at. The property was sold and there was no information regarding the listing agent or seller information. There is nothing to indicate that the Respondent was involved with the social media post.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

53. 2024002411
Opened: 2/12/2024
First Licensed: 10/31/2019
Expires: 10/30/2025
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident and licensed real estate professional. Respondent is a Real Estate Broker. Complainant alleges Respondent will not return commissions earned. The Complainant attached a copy of the escrow agreement.

Respondent stated that the Complainant owes the firm eight months of firm fees.

The Complainant was supposed to receive a check from the Sellers via the Sellers' agent,

and tender the funds to them for escrow with a property management company. The funds were to be repaid back to the Sellers once the repairs of the property were made and to the satisfaction of the Buyer. The Sellers never signed the agreement, nor did I receive any funds of any amount for the escrow agreement. The Complainant also stated the Buyer or Seller never contacted the Respondent, and the escrow agreement was never executed, making it null and void.

Based on the information provided, this is a dispute about commissions. Tenn. Comp. R. & Regs. 1260-02-.02(8) states that "the Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates." Therefore, Counsel recommends this matter be dismissed because the Commission does not have authority over this matter.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

54. 2024002491
Opened: 2/12/2024
First Licensed: 1/26/2021
Expires: 1/25/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and real estate professional. Respondent is an Affiliate Broker. The Complainant stated that they reached out to the Respondent to schedule a showing of a model home, but the Respondent refused the request.

Respondent stated the Complainant asked to view the home after hours. The Respondent provided the Complainant with the keypad code to view the model whenever it was convenient. The Complainant and their client viewed several of the homes, but the Buyer did not qualify.

Neither party included any additional documents. Based on the information provided, there is not enough information to support that the Respondent violated any statutes or rules.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

55. 2024003521
Opened: 2/12/2024
First Licensed: 8/9/2010
Expires: 8/8/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and prospective Buyer. Respondent is an Affiliate Broker and was the listing agent. The Complainant saw the property and contacted the Respondent to submit their offer. They assumed that their offer was accepted and moved forward with scheduling an appraisal and spent an estimated \$1,000 that they believe the Respondent owes them. Complainant alleges Respondent should be liable for not informing them that their offer had been rejected and that the property had multiple offers.

Respondent stated that they received a call from the Complainant, who claimed to be the owner of an investment group. The Complainant was unrepresented. The Respondent stated that they informed the Complainant that there were other offers that were higher and at no point did they inform the Complainant that their offer was accepted. The Complainant wasn't contacted by a lender, title attorney, didn't deposit any earnest money, or sign a contract. The Respondent attached text messages.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

56. 2024004641
Opened: 2/21/2024
First Licensed: 4/27/2023
Expires: 4/26/2025
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident and real estate professional. Respondent is a Real Estate Broker. The Complainant alleges Respondent illegally obtaining sensitive information from individuals for commercial purposes. Specifically, the complaint alleges that the Respondent got their information and began spamming them and believes the actions were unethical.

Respondent stated that they work with the Complainant at a real estate firm, and they obtained the contact information from their firm's external public facing website. The Respondent stated that they reached out to the Complainant directly, via email, to facilitate creating a referral agreement with them.

The Respondent denies spamming the Complainant but admits that they may have sent the same email two or possibly three times. They stated that it was not intentional, and believes they've identified a bug in the email management software and have discontinued any further use of the software until a proper resolution can be implemented.

Counsel finds Complainant's allegations related spamming and engaging in unethical behavior to be unfounded.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

57. 2024007031

Opened: 2/21/2024

First Licensed: 9/3/2020

Expires: 9/2/2024

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and homeowner. Respondent is an Affiliate Broker. The Complainant alleges that someone impersonated them as part of a scam to get earnest money from their property that was listed by the Respondent. They contacted the Respondent and asked that the listing be removed.

Respondent stated they received a lead by an individual believed to be the homeowner, requesting help to list their property. They ran a comp for and sent it. The individual decided to list the property for \$180,000. They wrote up the listing agreement for who was believed to be the deed holder. When they received the call from the Complainant, they emailed their broker to inform them of the situation. Their broker removed the listing immediately and advised them to inform the Complainant that the listing was removed and that the deed holder should report the spam listing and lead to the board.

Based on the information provided, the Respondent was not involved in the scam and had no knowledge. Under Tenn. Code Ann. § 62-13-406(c), there shall be no imputation of knowledge or information among or between clients, the managing broker and any designated agent or agents in a designated agency situation.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

58. 2024001181

Opened: 2/26/2024

First Licensed: 8/30/2004

Expires: 3/25/2024 (Expired-Grace)

Type of License: Principal Broker

History: 2006 Consent Order; 2020 Consent Order for failure to exercise reasonable skill and care

Complainant is a Tennessee resident and prospective Seller in a real estate transaction. The Respondent is a Principal Broker and acted as the Buyer's agent. Complainant alleges Respondent refused to provide the earnest money after the real estate transaction was terminated due to the Buyer being unable to obtain financing. The parties signed an agreement that the transaction was contingent on the Buyer's ability to obtain funding from their 401(k). Prior to closing, the Complainant was told that they are funding fell through and believes that the reason provided, was not sufficient and they should be entitled to the money.

The Respondent's Attorney submitted a response on their behalf. The Respondent stated that the contract was contingent on the Buyer being able to get money from their 401(k) for the earnest money and the remaining funds would be from lending. The earnest money was to be deposited with a third-party title company and it was stipulated that the holder is responsible to alert the parties of the Buyer's failure to deposit, allowing the Seller to terminate the contract. The Buyer never deposited the money, and it is the Respondent's assertion that the title company breached by not timely disclosing the issue. When the Respondent became aware, they contacted their client and was told they could not get the funding because the property was not considered a permanent structure since it was a mobile home.

Based on the information provided, the Complainant's issue is that they believe they are entitled to the earnest money. This matter would better suited for civil court as a contract dispute.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission voted to issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.

59. 2024001271
Opened: 2/26/2024
First Licensed: 7/23/2021
Expires: 7/22/2025
Type of License: Affiliate Broker
History: None

Complaint numbers REC-2024002081 (#62) and REC-2024001271 (#59) are related and contain identical allegations.

The Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges Respondent posted an ad on social media, but it did not have the required brokerage information. The complaint had screenshots of the listing attached.

Respondent stated they just received a consent order in Complaint number 202306470 which contained the same allegation filed by the same Complainant. The Respondent stated that they have already paid the civil penalty assessed.

Counsel reviewed the complaint number mentioned by the Respondent and found it was closed February 2024 and confirmed they paid a civil penalty. The allegations were the same and it was confirmed that it was the same property based off the pictures attached and the description. The link is one-click away.

Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

60. 2024001541
Opened: 2/26/2024
First Licensed: 7/12/2012

Expires: 9/18/2024
Type of License: Principal Broker
History: None

Complainant is a Real Estate Firm. Respondent is a Principal Broker. Complainant alleges Respondent advertised as a broker without the proper license. A screenshot of the Respondent with a license number was attached. The Respondent did not submit a response. Counsel reviewed the screenshot and confirmed the Respondent is licensed. Therefore, Counsel finds the allegation related to unlicensed activity to be unfounded.

However, the Respondent did not provide a response in violation of Tenn. Code Ann. § 62-13-313(a), that provides the accused applicant or licensee shall, within ten (10) days, file with the commission the applicant's or licensee's answer to the complaint. Counsel recommends that the Respondent be assessed a civil penalty of One Thousand Dollars (\$1,000).

Recommendation: One Thousand Dollar (\$1,000) civil penalty for failure to respond to a complaint in violation of Tenn. Code Ann. § 62-13-313(a).

Commission Decision: The Commission voted to accept counsel's recommendation.

61. 2024002021
Opened: 2/26/2024
First Licensed: 2/25/2002
Expires: 2/12/2026
Type of License: Affiliate Broker
History: None

Complainant is an out of state resident. Respondent is an Affiliate Broker. The Complainant alleges that the Respondent falsely appraised their home value and conspiring with their family member to put them in a conservatorship to take their assets.

Respondent stated that they used to be married to the Complainant and they have significant mental health and substance use problems. The stated that they have not been in contact with the Complainant since the divorce since 2006 and the conservatorship occurred in 2016. The Respondent stated that they have not engaged

in any real estate transactions with the Complainant, nor did they provide an appraisal value for the property.

Both parties attached multiple documents including copies of court records. The Complainant did not provide anything to suggest that the Respondent provided an appraisal.

Based upon all these facts, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

62. 2024002081

Opened: 2/26/2024

First Licensed: 9/22/1998

Expires: 6/20/2024

Type of License: Principal Broker

History: 2006 Letter of Warning regarding contract preparation; 2023 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

Complaint numbers REC-2024002081 (#62) and REC-2024001271 (#59) are related and contain identical allegations.

The Complainant is a Tennessee resident. Respondent is a Principal Broker. Complainant alleges Respondent's Affiliate posted an ad on social media, but it did not have the required brokerage information. The complaint had screenshots of the listing attached.

Respondent and Affiliate stated they just received a consent order in Complaint number 202306470 which contained the same allegation filed by the same Complainant. The Affiliate has already paid the civil penalty assessed.

Counsel reviewed the complaint number mentioned by the Respondent and found it was closed February 2024 and confirmed they paid a civil penalty. The allegations were the same and it was confirmed that it was the same property based off the pictures attached and the description. The link is one-click away.

Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

63. 2024003711

Opened: 2/26/2024

First Licensed: 9/12/2022

Expires: 9/11/2024

Type of License: Affiliate Broker

History: None

Complaint numbers REC-2024003711 (#63) and REC-2024007671 (#64) are related and contain identical allegations.

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. The Complainant alleges Respondent is in violation of the advertising rules by posting an ad on social media without the brokerage or the phone number as required. The complaint had a screenshot of the listing attached.

Respondent's Principal Broker submitted a response their behalf. They stated the ad followed the one-click rule, and included the office name was listed but not the office phone number.

Counsel reviewed the screenshot and there was a link that said "see more" but that section was not included. Counsel was able to find the social media post and all the requisite information is included.

Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

64. 2024007671
Opened: 2/26/2024
First Licensed: 2/21/2017
Expires: 11/1/2024
Type of License: Principal Broker
History: None

Complaint numbers 2024003711 (#63) and 2024007671 (#64) are related and contain identical allegations.

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. The Complainant alleges Respondent is in violation of the advertising rules by posting an ad on social media without the brokerage or the phone number as required. The complaint had a screenshot of the listing attached.

Respondent's Principal Broker submitted a response their behalf. They stated the ad followed the one-click rule, and included the office name was listed but not the office phone number.

Counsel reviewed the screenshot and there was a link that said "see more" but that section was not included. Counsel was able to find the social media post and all the requisite information is included.

Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

CASES TO BE REPRESENTED:

65. 2023019581
Opened: 5/30/2023
Unlicensed:
History: None

Complainant is a licensed real estate agent. Respondent is unlicensed. Complainant alleges Respondent solicited offers for the purchase and sale agreements without a license. Complainant included an email from Respondent with the property listed for sale.

Respondent did not respond.

The advertisement does not indicate Respondent has a property interest or owned the property and suggests they are engaged in unlicensed activity. Counsel reviewed Respondent's firm name and address. However, there were no results found for the firm name and the address came back as a local apartment complex.

Counsel finds Complainant's allegations related to unlicensed activity to be founded.

Based upon all these facts, Counsel recommends this matter be assessed a One Thousand Dollar (\$1,000) civil penalty for unlicensed activity.

Recommendation: One Thousand Dollar (\$1,000) civil penalty.

Commission Decision: The Commission voted to accept counsel's recommendation.

New Information: Counsel submitted a request for service because they were unable to get a response from the Respondent. The investigator was able to find an individual with the same name, however, they denied engaging in any real estate business. Their attorney reached out and stated that they believe the wrong person was identified because this individual is a teacher.

Since Counsel has nothing connecting this Respondent to the allegations nor a way to find the proper Respondent, it is recommended that this case be dismissed.

New Recommendation: Dismiss.

New Commission Decision: The Commission accepted counsel's recommendation.

66. 2022036971
Opened: 10/17/2022
First Licensed: 10/16/2019
Expires: 10/15/2025
Type of License: Real Estate Firm
History: None

Complainant is a renter. Respondent is a property management company.

Complainant states Respondent billed Complainant \$508 repairs including taking a small piece of wood out of the gate because it was leaning and added a few nails. Respondent replaced the bolts in the security door because the others had rusted out and fixed the inside of the outside door frame because the wood had decomposed so badly that Complainant could not lock the door. Complainant states Respondent scheduled with Complainant's case manager a 14-day notice to vacate the premises because Complainant reached out to the CEO and his wife with the review.

Respondent did not respond to the complaint.

Counsel opines that Respondent is not required to be a TREC licensee and the allegations do not violate a TREC regulation. Therefore, Counsel recommends dismissal.

Recommendation: Dismiss.

Commission Decision: The Commission voted to assess a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity.

New Information: Counsel inherited this case. The previous counsel recommended a civil penalty for unlicensed activity because they did not have a vacation rental license. Counsel reviewed the matter after receiving a response from the Respondent's attorney that stated that the Respondent had a license that was valid, and the civil penalty shouldn't be assessed to them. Counsel found that the Respondent was a property management company, and they had the proper license. Therefore, Counsel recommends this matter be dismissed.

New Recommendation: Dismiss.

New Commission Decision: The Commission voted to accept counsel's recommendation.

67. 2023056771

Opened: 12/4/2023

First Licensed: 12/1/2016

Expires: 11/30/2024

Type of License: Real Estate Firm

History: None

Complainant is a licensed real estate professional and represented the prospective buyer in a real estate transaction. Respondent is a Real Estate Firm and was the listing agency for the property. Complainant stated their client was told they needed to talk directly to the seller (Property Company) and assumed the seller was the same individual. The Complainant found out that Property Company only had an assignable contract for the property and was not the legal owner. Complainant

alleges Respondent failed to disclose that the Property Company did not have valid ownership and should be engaged in the negotiations.

The Respondent stated that they are not affiliated with the Property Company, and they listed the property with a valid power of attorney. Respondent stated all the offers and addendums were prepared by the Complainant and they did not notice the addition of Property Company's name until the complaint was received. The Respondent attached the MLS listing, Purchase and Sale Agreement, and other documents.

Based on the information provided, the Property Company is not mentioned in the MLS listing but does show up throughout the various contracts signed by the parties. Counsel was unable to determine who owned the Property Company or the extent of the involvement in the real estate transaction. Counsel finds it concerning that the Respondent did not notice a party to the contract that had no relationship to the transaction, although it was signed by all parties. Counsel finds that they failed to do their due diligence to exercise reasonable skill and care under T.C.A. § 62-13-403.

Based upon all these facts, Counsel recommends this Respondent be assessed a civil penalty of Five Hundred Dollars (\$500.00) for failing to do exercise reasonable skill and care when they failed to notice all parties to the contract under T.C.A. § 62-13-403.

Recommendation: Five Hundred Dollars (\$500.00) for a violation of T.C.A. § 62-13-403(1) for failing to exercise reasonable skill and care.

Commission Decision: The Commission voted to accept counsel's recommendation.

New Information: After the Respondent received the consent order, Counsel had a conversation with them, and they requested that the following information be submitted for the Commission to reconsider.

The Respondent stated they were operating under a Power of Attorney (POA) and that person also had a contract to purchase thus creating a wholesale transaction. They were unaware of this until the offer came in from the buyer's agent. It was only after receiving the offer did, they know about the wholesale.

Once the offer was in and signed then they worked until it was cancelled, and they only had an obligation from an MLS rules standpoint. They stated that the MLS did not allow them to cancel a listing when there is an active offer or contract on a property because it would violate their rules and create a fine situation that could potentially escalate to higher amount for not having handled the transaction properly. Once the transaction failed the Respondent cancelled the listing in the MLS and have not done any further business with the Individual.

In short, the Respondent stated that the once they learned that the individual only had the POA and was not the legal owner, they did everything to retract the offer.

Counsel still maintains that the Respondent failed to exercise reasonable skill and care as the offer still contained multiple names and did not notice.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to continue with the original discipline.

The meeting was recessed from 10:40 AM to 8:30 AM on April 11, 2024.

Tennessee Department of Commerce and Insurance v. Krystal L. Whaley – 12.18-236119A:

The Commission heard a contested case proceeding against Respondent, Krystal Whaley beginning at 8:30 a.m. on Thursday, April 11, 2024. Anna D. Matlock and Kim Cooper, Associate General Counsels, represented the Department of Commerce and Insurance. Ms. Whaley represented herself. Judge Claudia Padfield, Administrative Law Judge assigned by the Secretary of State's Administrative Procedures Division, sat with the Commission.

The matter before the Commission included five (5) separate complaints for REC-2022033781, REC-2022034051, REC-2022034061, REC-2022045741, and REC-2022000051. Four (4) of the complaint allegations related to violations of Tenn. Code Ann. § 62-13-313(a)(2), or failure to respond to a complaint. The fifth complaint was related to violations of Tenn. Code Ann. §§ 62-13-312(b)(11), 62-13-312(b)(20), 62-13-403(1), 62-13-403(6) and Tenn. Comp. R. & Regs. 1260-02-.09.

The Commission elected to revoke Respondent's principal broker license and assess a civil penalty for a total amount of Forty Dollars (\$40.00) and Sixty Dollars (\$60.00) for reimbursement of court costs for bringing the action. This amount to be paid within thirty (30) days.

The meeting adjourned at 1:53 PM on April 11, 2024.