



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND  
INSURANCE TENNESSEE REAL ESTATE**

**COMMISSION  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243**

**615-741-2273**  
<https://www.tn.gov/commerce/regboards/trec.html>

**MINUTES**

The Tennessee Real Estate Commission held a meeting July 8, 2020 at 8:30 a.m. CST via the WebEx meeting platform based at the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, TN 37243. The meeting was called to order by Chairman John Griess. Chairman Griess welcomed everyone to the Board meeting.

Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Chairman John Griess, Vice-Chair Marcia Franks, Commissioner Steven Guinn, Commissioner Bobby Wood, Commissioner Joe Begley, Commissioner John Moffett, Commissioner Stacie Torbett, Commissioner Geoffrey Diaz, and Commissioner Joan Smith. Quorum Confirmed. Others present: Executive Director Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Shilina Brown, paralegal Carol McGlynn, Education Director Ross White, and TREC staff member Aaron Smith.

Associate General Counsel Anna Matlock read the “Statement of Necessity” into the record.

The July 8, 2020 board meeting agenda was submitted for approval.

Motion to approve the agenda as amended was made by Commissioner Diaz and seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

Minutes for the May 7, 2020 board meeting were submitted for approval.

Motion to approve the May 7, 2020 minutes was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed 8-0 with Commissioner Smith abstaining from the vote.

**INFORMAL APPEARANCES**

Keira Moore appeared before the commission with her Principal Broker Dwayne Powell to be granted permission to receive her Affiliate Broker license.

Motion to approve Ms. Moore was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed 8-0 with Commissioner Begley abstaining from the vote.

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Houston Parks appeared before the commission with his Principal Broker Gerran Wheeler to be granted permission to receive his Affiliate Broker license.

Motion to approve Mr. Parks was made by Commissioner Torbett and seconded by Commissioner Begley. Motion passed 7-1 with Commissioner Wood voted against and Commissioner Diaz being absent for the vote.

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**MEDICAL WAIVER**

Director Maxwell presented Jeffrey Abbott, to the commission for a Medical Waiver request.

Motion to defer for 30 days was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

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**EDUCATION REPORT**

Education Director Ross White presented the education report to the Commission.

Motion to approve courses J1-J28 was made by Commissioner Diaz and seconded by Commissioner Wood. Motion passed unanimously by roll call vote.

Education Director Ross White presented instructor biographies to the Commission.

Motion to approve instructors was made by Vice-Chair Franks and seconded by Commissioner Wood. Motion passed unanimously by roll call vote.

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**EXECUTIVE DIRECTOR'S REPORT**

**Topics:**

- **PSI:** Director Maxwell informed the Commission that she would be meeting with PSI, regarding proctoring in addition to gathering feedback from other states and would update the commission during the June 2020 meeting.

- **E&O:** Director Maxwell explained the increased complaint numbers previously questioned by Commissioner Wood. Director Maxwell explained that the rise in complaints was due to failure to maintain Errors and Omission Insurance. She also explained we are in a bid year for E&O and January is when a large number of licensees expire, 1/1/2021.
- **TITLE VI:** Reminder that DOHR is requesting Title VI training to be completed by mid-July.

**LEGAL OPINION:**

Associate General Counsel Anna Matlock presented a legal opinion upon the request of the Commission concerning Tenn. Code Ann. § 62-13-312(b)(11). Ms. Matlock informed the Commission that it was the opinion of the legal department that the laws of agency, such as Tenn. Code Ann. § 62-13-401, permit principal brokers to contract with a third party, who would serve as their agent, to disburse commissions. The Commission requested a formal opinion from the Office of the Attorney General.

**ARELLO Annual Conference:** Vice-Chair Marcia Franks updated the commission that as of now the Annual Conference scheduled for Montreal, Canada would take place virtually on ZOOM. The meeting will take place September 23-26, 2020.

**CONSENT AGENDA:**

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal, legal has recommended either dismissal or discipline.

A motion to accept counsel's recommendation for cases 1-87 with exception to following cases which were pulled for further discussion: 2020011021, 2020022621, 2020025171, 2020025201, 2020025291, 2020027031, 2020018601, 2020025231, 2020014451, 2019037691, 2020017511 was made by Commissioner Diaz, and seconded by Commissioner Torbett. Motion passed unanimously.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to close complaint 2020011021, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal's recommendation to dismiss complaint 2020022621, seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion **to issue a \$500.00 civil penalty for the violations** on complaint 2020025171, seconded by Vice-Chair Franks. Motion passed unanimously roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal' s recommendation to dismiss complaint 2020025201, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept counsel' s recommendation on complaint 2020025291, seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept legal' s recommendation to close complaint 2020027031, seconded by Vice-Chair Franks. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion **to issue a civil penalty for \$1,500.00 for the violation of T.C.A. 62-13-312 (b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09 (11) with an additional civil penalty of \$1,000.00 for failure to respond to the complaint for a total of \$2,500.00 in civil penalties and the Respondent's license shall be downgraded to Affiliate Broker for a term not to exceed three (3) years** on complaint 2020025231, seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Commissioner Wood made the motion **to continue with their original decision to assess and additional \$500.00 civil penalty for the billboard advertising violation** on complaint 2020014451, seconded by Commissioner Diaz. Motion passed 5-4 with Commissioner's Begley, Guinn, Torbett, and Griess voting against.

After further discussion by the Commission, Commissioner Diaz made the motion to accept legal' s recommendation to dismiss complaint 2019037691, seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion to keep the original decision of the Commission **to issue a Consent Order with a six (6) month suspension of the license** on complaint 2020017511, seconded by Commissioner Wood. Motion passed unanimously by roll call vote.

**SHILINA BROWN**

**1. 202006061**

**Opened: 1/27/2020**

**Type of License: Unlicensed**

**History: None**

Complaint is a real estate licensee. Respondent is a real estate firm operating in Tennessee without a firm license.

Complaint filed a complaint alleging the Respondent firm is a real estate firm that does not physically exist in the State of Tennessee and has no actual physical offices and the realtors listed are not affiliated with the firm. It appears to be a fraudulent real estate firm. Upon checking with the Secretary of State, there is no entity in Tennessee that is registered with the Secretary of State as a real estate company.

**Recommendation: \$1,000 civil penalty for operating as an unlicensed real estate firm.**

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

**2. 2020014611**

**Opened: 2/25/2020**

**Type of License: Unlicensed**

**History: None**

Complaint filed against a firm located in Tennessee through a broker that is attempting to purchase timeshares through an escrow company based in Maryland. The Complainant paid a "transfer fee" of 10% of the offer to buy the timeshare and Respondent stated the amount would be paid back to the Complainant upon the sale of the timeshare. The Complainant was to receive \$26,000 plus the "transfer fee" of \$2,600. The Complainant alleges this was a scam involving a third party escrow company and when it was time to close the Respondent wanted another \$2,250 for closing costs from the Complainant. The Complainant wired the initial "transfer fee" to a bank in Mexico and unable to get the money returned. The Respondent did not provide a response. Respondent is holding itself out as a real estate firm with licensed realtors on the website.

**Recommendation: \$1,000 civil penalty for unlicensed firm.**

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

**3. 2020008981**

**Opened: 2/4/2020**

**First Licensed: 9/27/2017**

**Expires: 9/26/2021**

**Type of License: Affiliate Broker**

**History: 2019 Letter of Warning re rules regarding interfering with agency relationships**

Complainant buyer made an offer on a house listed by the Respondent and alleges the Respondent purposefully undervalued the home in order to begin a bidding war on the price. The Respondent was the listing agent and provided a response. The Respondent is not the owner of the home and listed the home for the owner. This matter was investigated and there was no finding the

Respondent had undervalued the home or engaged in any wrongdoing by the Respondent. There were multiple offers made and the Complainant did not have the winning bid.

**Recommendation: Close.**

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

**4. 202005111**

**Opened: 3/17/2020**

**First Licensed: 1/11/2008**

**Expires: 1/10/2022**

**Type of License: Affiliate Broker**

**History: None**

Complainant Buyers allege the Respondent, an affiliate broker did not represent the interests of the Buyer in the sale of a home. The Complainants had made several offers and alleges the Respondent refused to submit the inspection report to prove the repairs that were needed to the sellers following the Sellers declining the Buyers last offer. The Sellers had already stated they were unwilling to make any repairs to the property. The Complainant Buyers made another offer for their review in order to get them to agree to the repairs, however, the Sellers had already refused the Complainant's offer. The Complainant's made another offer and purchased the home. The Complainant also alleges they were not able to access any documents and the Respondent did not provide copies of all documents.

The Respondent provided a response and stated there were multiple offers made and the Complainant buyers were concerned about making an "AS IS" offer on the property. Since the Complainant's really wanted to purchase the property and made a fourth offer with the Respondent even reducing the commission and buying the property "AS IS." This fourth offer was accepted by the Sellers. After a home inspection was done, there appeared to be problems with the HVAC system, however, it appears the Sellers controlled the HVAC system with their cell phones and there was nothing wrong with the HVAC. The Respondent stated that if the Complainant's wanted a credit for the repairs, a home inspection report would have to be produced and the Complainant did not submit a written home inspection report. However, the Sellers did not want the inspection report and the Complainants wanted to terminate the contract and requested the Respondent send them the termination documents. The Complainants wanted the Respondent to send the entire inspection report with the termination report and the Respondent did not think that would be appropriate and discussed it with the principal broker. The principal broker advised not to send the report and spoke directly with the Complainants about not sending the report. The principal broker helped to facilitate the closing of the sale and assisted in negotiating the sale for the Complainant's without terminating the contract. At the Complainants' request, the Complainant did obtain a \$3,000 credit and a home warranty from the Sellers to complete the sale of the property. The Respondent did share all documents with the Complainants through DotLoop and did not withhold or fail to respond to the Complainants.

**Recommendation:** Close.

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

**5. 2020003801**

**Opened:** 3/9/2020

**First Licensed:** 3/10/1995

**Expires:** 12/7/2020

**Type of License:** Principal Broker

**History:** 2012 Letter of Warning

Complainant is a police investigator. Respondent is a licensed principal broker. Complainant presented an affidavit completed by a paralegal that represents the executor of an estate. The affidavit alleges Respondent attempted to sell a camper to the decedent, as well as matters related to the pending sale of a property where Respondent served as an agent. A complaint was opened in Probate Court and the Court ordered for the home to be sold according to the pending contract. Later, the executor contacted Complainant alleging Respondent arrived at closing requesting an additional two thousand seven hundred fifty dollars (\$2,750.00) be deducted for consulting work. Respondent later withdrew that claim. On or about October 28, 2019, Complainant observed two (2) claims from Respondent to be deducted from the estate, both of which exceptions were filed by Complainant in Probate Court. The Court found Respondent did not have any documents to support these claims and Respondent may have "extrapolated the signature from the Purchase and Sale Agreement" to one of the documents of the two (2) claims in question.

Respondent states they were friends with the decedent for over twenty (20) years and this is where the inquiry for acquiring the camper came from. Respondent was the listing agent for the decedent and their agent through most of the friendship for buying and selling. Respondent denies any claims of pressuring the decedent to the sell the home. Respondent then further details the issues regarding the sale price of the home, which the Probate Court has already settled. Respondent also denies forging the signature related to the one of the claims against the estate stating "we all sign our names different and then the same. Signatures can depend on the mood someone is in."

Counsel conducted an investigation and found that Respondent has been indicted on criminal charges of theft of money, forgery, and perjury related to the claims made against the decedent's estate. The charges pending against Respondent have yet to be resolved and are not directly related to the Respondent's activity in the transaction regarding the purchase and sale of the home. However, these criminal offenses are enumerated in Tenn. Code Ann. § 62-13-312(b)(12) and according to Tenn. Code Ann. § 62-13-312(f) Respondent is required to notify the Commission if they plead guilty or convicted of any of these enumerated offenses. Therefore, since Respondent has yet to plead guilty or be convicted, Counsel recommends this matter be closed and flagged so the Commission is notified if, any when, Respondent should renew their license licensing staff is aware to inquire about the status of the pending criminal charges.

**Recommendation:** Litigation monitoring.

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

**6. 2020016241**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent failed to forward the rental amounts due after the notice of termination and also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Terminations. The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**7. 2020016951**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent collected rental payments from the tenants of the properties for a four (4) month period and failed to timely forward the rental amounts due after the notice of termination. The Complainant also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Terminations. The Respondent provided a response and stated the Complainant failed to properly inform the tenants of the change in management companies. Also, under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. The Respondent was attempting to assist the tenants with the payments because the tenants were

concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination.

**Recommendation: Close.**

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

**8. 2020016111**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent failed to forward the rental amounts due after the notice of termination and also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Terminations. The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. This occurred within the 60 day period. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination.

**Recommendation: Close.**

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

**9. 2020016481**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent collected rents for a four (4) month period and failed to forward the rental amounts due after the notice of termination and also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Terminations. The Complainant also alleges the Respondent failed to return security deposit monies. The Respondent provided a response and stated the Notice of Termination was submitted two months prior to termination of the management agreement. Also, the Respondent stated the Complainant failed to properly inform the tenants of the change in management companies. Also, under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. This occurred within the 60 day period. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination. Also, there were no security deposit monies submitted by these tenants. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**10. 2020016591**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent failed to forward the rental amounts due after the Notice of Termination. The Respondent provided a response and stated the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Notice of Termination, the Complainant is required to

provide a 60 day notice period to the Respondent prior to termination of the management agreement. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees. The Respondent accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination.

**Recommendation: Close.**

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

**11. 2020016911**

**Opened: 3/9/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant stated the Respondent collected rents for his rental properties after he signed a Notice of Termination and failed to forward the rental amounts due after the notice of termination. Complainant also alleges the Respondent failed to return security deposits for the tenants that were held by the Respondent for the rental properties. The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. The rental payments were collected during the 60 day period. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent stated no security deposits collected for the properties, so there were no amounts to forward to the Complainant. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**12. 2020017361**

**Opened: 3/17/2020**

**First Licensed: 11/02/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**  
**History: None**

Complainant stated the Respondent collected rents for his rental properties after he signed a Notice of Termination and failed to forward the rental amounts due after the notice of termination. Complainant also alleges the Respondent failed to return security deposits for the tenants that were held by the Respondent for the rental properties. The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. The rental payments were collected during the 60 day period. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent stated there were no security deposits collected for the properties, so there were no amounts to forward to the Complainant. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**13. 2020016751**

**Opened: 3/30/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties that are managed by the Respondent. The Complainant signed a notice of termination with the Respondent and the Respondent failed to return the security deposit within the allowable time period. Additionally, the Complainant alleges the Respondent failed to forward the rental amounts due after the notice of termination and also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Termination. The Respondent provided a response and stated the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent stated under the Notice of Termination, the Respondent has 60 days to forward all funds to the Respondent. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. The Respondent stated that there was no security deposit monies paid by the tenant and there was

no need to return the security deposit. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**14. 2020016891**

**Opened: 3/30/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant stated the Respondent continued to collect rents for rental properties owned by the Complainant after a Notice of Termination and also failed to forward the Complainant the rental amounts due. Complainant also alleges the Respondent failed to return security deposit amounts for the tenants that were held by the Respondent for the rental properties. The Respondent provided a response and state the Complainant failed to properly inform the Complainant's tenants of the change in management companies and under the terms of the Notice of Termination, the Complainant is required to provide a 60 day notice period to the Respondent prior to termination of the management agreement. The rental payments were collected during the 60 day period. The Respondent was attempting to assist the tenants with the payments because the tenants were concerned about late payments and did not want rental payments to be late or to be assessed late fees and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent stated there were no security deposits collected for the properties, so there were no amounts to forward to the Complainant. The Respondent forwarded the rental amounts to the Complainant within the required time period in accordance with the terms of the contract and Notice of Termination. The fees collected were cleaning/maintenance fees and there were no security deposits collected for the properties. The terms of the agreement specifically state the cleaning/maintenance fees would be retained by the Respondent.

**Recommendation: Close.**

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

**15. 2020016921**

**Opened: 3/30/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant has rental properties managed by the Respondent's management company and signed a Notice of Termination on January 1, 2020. The tenant paid rental payments for January and

February to the Respondent and when the new management company attempted to recover the rental monies from the Respondent, the Respondent did not turn over the rental amounts and later turned over the funds to the Complainant after taking the management fees from the amounts.

The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and even after the Respondent told the tenants that the payments should be made to the new management company, the tenants were unable to reach anyone at the new management company and Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and be assessed late fees. The Respondent accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. Also, the Notice of Termination allows for a sixty (60) day notice period and the rental payments from the tenants were made during the notice period.

**Recommendation: Close.**

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

**16. 2020017081**

**Opened: 3/30/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant has rental properties managed by the Respondent's management company and signed a Notice of Termination on January 1, 2020. The tenant paid rental payments for January and February to the Respondent and when the new management company attempted to recover the rental monies from the Respondent, the Respondent did not turn over the rental amounts and later turned over the funds to the Complainant after taking the management fees from the amounts.

The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and even after the Respondent told the tenants that the payments should be made to the new management company, the tenants were unable to reach anyone at the new management company and Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and be assessed late fees. The Respondent accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. Also, the Notice of Termination allows for a sixty (60) day notice period and the rental payments from the tenants were made during the notice period.

**Recommendation: Close.**

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

**17. 2020018281**

**Opened: 3/30/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant has rental properties managed by the Respondent's management company and signed a Notice of Termination on January 1, 2020. The tenant paid rental payments to the Respondent and attempted to recover the rental monies from the Respondent, the Respondent did not turn over the rental amounts and later turned over the funds to the Complainant.

The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies, the tenants were unable to reach anyone at the new management company. Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and be assessed late fees. The Respondent accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent. Also, the Notice of Termination allows for a sixty (60) day notice period and the rental payments from the tenants were made during the notice period.

**Recommendation: Close.**

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

**18. 2020020631**

**Opened: 4/13/2020**

**First Licensed: 11/2/1993**

**Expires: 5/3/2021**

**Type of License: Principal Broker**

**History: None**

Complainant owns several rental properties managed by the Respondent rental company and signed a notice of termination. The Complainant alleges the Respondent failed to forward the rental amounts due after the notice of termination and also collected management fees for the rentals during the period the rental amounts were submitted to the Respondent which was after the date of the signed Notice of Terminations. The Respondent provided a response and state the Complainant failed to properly inform the tenants of the change in management companies and under the terms of the Respondent was attempting to assist the tenants with the payments because they did not want to be late with rental payments and accepted the payments as a courtesy to the Complainant and the Complainant's tenants. The Respondent claims he was entitled to the management fees for those months the rent was collected under the terms of the contract between the Complainant and the Respondent.

**Recommendation:** Close.

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

**19. 2020011021**

**Opened:** 4/7/2020

**First Licensed:** 11/25/1992

**Expires:** 5/24/2020

**Type of License:** Affiliate Broker

**History:** (related to 2020011491 and 2020011511); None

Complainant Buyer alleges the Respondent, an affiliate broker, was deceitful and made misrepresentations to the Complainant during the purchase of a property. The Complainant claims a termite inspection was required to be performed and paid by the Seller and pay for any termite treatment (if needed) and provide a termite letter even though the property was to be sold "AS IS." The Complainant Buyer alleges they were informed there were no termites and the closing date could be set. The clear termite letter would be brought to the closing. Following the inspection, it appeared there were several issues with the property and negotiations began concerning the price. During this period the home was inspected again, the home was grossly infested with termites and the termites were not treated. At closing, a clear termite letter was not presented to the Complainant Buyer and the home was being sold "AS IS." Later, the Seller committed to correcting this and would treat the home. Approximately 50 days after receiving notice the home was infested with termites, the treatment company did the first treatment. Due to the severity of the termites and a water leakage, the Complainant Buyer had to pay an additional \$850 (out-of-pocket) for the treatment. The Complainant Buyer has still not received a clear termite letter. The Complainant states the Respondent withhold material defect concerning the termites as required under the terms of the contract. The Complainant also stated because this was a cash purchase and a short closing date and had not been advised of liens. The Complainant stated the Respondent had a duty to disclose the liens, so that the Buyer could make a proper evaluation on whether to enter into or proceed with the transaction. The Complainant Buyer stated there was a TennCare lien in the amount of \$140,000, which is higher than the selling price. The Complainant Buyer became aware of the lien from the Respondent's attorney and the closing company the day before the original closing date.

The Respondent provided a response and stated they not aware of the TennCare lien prior to the Complainant Buyer's offer on the property. When the property was listed, the Respondent obtained all the information about the property and completed a property intake sheet. The property owner's sister and power of attorney, did not disclose the TennCare lien when the property was listed with the Respondent and the Respondent's firm. The Respondent was unaware of the lien until notified by Foundation Title. The property owner's sister and power of attorney was not even aware of the lien on the property and the Respondent worked to have the lien removed immediately, including having her personal attorney assist the Seller's sister in having the lien removed. The Complainant was advised of the lien prior to the closing date. The Complainant was advised of the lien in late September 2019 and could have terminated the contract. Instead, the Complainant agreed to extend the closing date and proceed with the transaction. The Respondent did not misrepresent or fail to disclose the lien.

The Respondent was not aware the property was grossly infested with termites and needed immediate treatment and did not fail to disclose the information to the Complainant Buyer. The termite inspection was performed in September 2019 and a report was received and the report specifically stated: "termite shelter tubes found on block foundation in crawlspace." The report provided absolutely no indication that the property was grossly infested with termites or even indicated that live insects were present. The Respondent did not have any conversations with the termite company or the inspector and was unaware of any termite infestation that required immediate treatment. The Wood Destroying Insect Inspection does not state that there was an infestation or that there were live insects present.

The Complainant decided in December 2019 to have the property dry locked in order to keep the termites from causing damage based on the termite inspection. There were no active termites on the property, nor a water leakage issue. Also, the Repair/Replacement Amendment, there was no issue with a repair request made by the Complainant with respect to a water leakage.

The Respondent states the property was accepted by the Complainant "AS IS" and the amendment did not make any mention of the termite inspection or treatment, which had been previously included in the special stipulations section of the PSA. The Respondent proceeded without performance of the termite treatment, since the Amendment did not specifically reference the termite issue or incorporate the special stipulations section of the PSA. The Amendment did not reference the termite inspection or incorporate the special stipulations section of the PSA and therefore, was no longer applicable and the Amendment superseded the original contract. It appears the Complainant understood this differently and thought that the PSA still controlled and termite treatment and clear termite letter would still be provided at closing. The Complainant misunderstood what was required of the Seller after the Amendment was executed.

When the Repair/Replacement Amendment was executed, the Complainant Buyer agreed to accept the property "AS IS." When the Complainant Buyer was upset with the termite treatment not being performed at closing, the Respondent agreed to pay for the termite treatment and the property was treated on November 7, 2019 with a one year warranty. The Complainant should not have had to incur any additional out-of-pocket expenses related to the termites.

**Recommendation: Close.**

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

**20. 2020011491**

**Opened: 4/7/2020**

**First Licensed: 5/16/2002**

**Expires: 12/13/2021**

**Type of License: Real Estate Broker**

**History: (related to 2020011021 and 2020011511); None**

The Complainant is the Buyer and the Respondent is the Principal Broker. Complainant Buyer alleges the Respondent's Affiliate Broker was deceitful and made misrepresentations to the Complainant during the purchase of a property. The Complainant claims a termite inspection was required to be performed and paid by the Seller and pay for any termite treatment (if needed) and provide a termite letter even though the property was to be sold "AS IS." The Complainant Buyer alleges they were informed there were no termites and the closing date could be set. The clear termite letter would be brought to the closing. Following the inspection, it appeared there were several issues with the property and negotiations began concerning the price. During this period the home was inspected again, the home was grossly infested with termites and the termites were not treated. At closing, a clear termite letter was not presented to the Complainant Buyer and the home was being sold "AS IS." Later, the Seller committed to correcting this and would treat the home. Approximately 50 days after receiving notice the home was infested with termites, the treatment company did the first treatment. Due to the severity of the termites and a water leakage, the Complainant Buyer had to pay an additional \$850 (out-of-pocket) for the treatment. The Complainant Buyer has still not received a clear termite letter. The Complainant states the Respondent withhold material defect concerning the termites as required under the terms of the contract. The Complainant also stated because this was a cash purchase and a short closing date and had not been advised of liens. The Complainant stated the Respondent had a duty to disclose the liens, so that the Buyer could make a proper evaluation on whether to enter into or proceed with the transaction. The Complainant Buyer stated there was a TennCare lien in the amount of \$140,000, which is higher than the selling price. The Complainant Buyer became aware of the lien from the Respondent's attorney and the closing company the day before the original closing date.

The Respondent provided a response and stated they not aware of the TennCare lien prior to the Complainant Buyer's offer on the property. When the property was listed, the Respondent obtained all the information about the property and completed a property intake sheet. The property owner's sister and power of attorney, did not disclose the TennCare lien when the property was listed with the Respondent and the Respondent's firm. The Respondent was unaware of the lien until notified by Foundation Title. The property owner's sister and power of attorney was not even aware of the lien on the property and the Respondent worked to have the lien removed immediately, including having her personal attorney assist the Seller's sister in having the lien removed. The Complainant was advised of the lien prior to the closing date. The Complainant was advised of the lien in late September 2019 and could have terminated the contract. Instead, the Complainant agreed to extend the closing date and proceed with the transaction. The Respondent did not misrepresent or fail to disclose the lien.

The Respondent was not aware the property was grossly infested with termites and needed immediate treatment and did not fail to disclose the information to the Complainant Buyer. The termite inspection was performed in September 2019 and a report was received and the report specifically stated: "termite shelter tubes found on block foundation in crawlspace." The report provided absolutely no indication that the property was grossly infested with termites or even indicated that live insects were present. The Respondent did not have any conversations with the termite company or the inspector and was unaware of any termite infestation that required immediate treatment. The Wood Destroying Insect Inspection does not state that there was an infestation or that there were live insects present.

The Complainant decided in December 2019 to have the property dry locked in order to keep the termites from causing damage based on the termite inspection. There were no active termites on the property, nor a water leakage issue. Also, the Repair/Replacement Amendment, there was no issue with a repair request made by the Complainant with respect to a water leakage.

The Respondent states the property was accepted by the Complainant "AS IS" and the amendment did not make any mention of the termite inspection or treatment, which had been previously included in the special stipulations section of the PSA. The Respondent proceeded without performance of the termite treatment, since the Amendment did not specifically reference the termite issue or incorporate the special stipulations section of the PSA. The Amendment did not reference the termite inspection or incorporate the special stipulations section of the PSA and therefore, was no longer applicable and the Amendment superseded the original contract. It appears the Complainant understood this differently and thought that the PSA still controlled and termite treatment and clear termite letter would still be provided at closing. The Complainant misunderstood what was required of the Seller after the Amendment was executed.

When the Repair/Replacement Amendment was executed, the Complainant Buyer agreed to accept the property "AS IS." When the Complainant Buyer was upset with the termite treatment not being performed at closing, the Respondent agreed to pay for the termite treatment and the property was treated on November 7, 2019 with a one year warranty. The Complainant should not have had to incur any additional out-of-pocket expenses related to the termites.

There were no allegations against the Principal Broker in the complaint.

**Recommendation: Close.**

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

**21. 2020011511**

**Opened: 4/7/2020**

**First Licensed: 10/25/2005**

**Expires: 10/24/2001**

**Type of License: Real Estate Firm**

**History: (related to 2020011021 and 2020011491); None**

The Complainant is the Buyer and the Respondent is the Real Estate Firm. Complainant Buyer alleges the Respondent's Affiliate Broker, was deceitful and made misrepresentations to the Complainant during the purchase of a property. The Complainant claims a termite inspection was required to be performed and paid by the Seller and pay for any termite treatment (if needed) and provide a termite letter even though the property was to be sold "AS IS." The Complainant Buyer alleges they were informed there were no termites and the closing date could be set. The clear termite letter would be brought to the closing. Following the inspection, it appeared there were several issues with the property and negotiations began concerning the price. During this period the home was inspected again, the home was grossly infested with termites and the termites were not treated. At closing, a clear termite letter was not presented to the Complainant Buyer and the

home was being sold “AS IS.” Later, the Seller committed to correcting this and would treat the home. Approximately 50 days after receiving notice the home was infested with termites, the treatment company did the first treatment. Due to the severity of the termites and a water leakage, the Complainant Buyer had to pay an additional \$850 (out-of-pocket) for the treatment. The Complainant Buyer has still not received a clear termite letter. The Complainant states the Respondent withhold material defect concerning the termites as required under the terms of the contract. The Complainant also stated because this was a cash purchase and a short closing date and had not been advised of liens. The Complainant stated the Respondent had a duty to disclose the liens, so that the Buyer could make a proper evaluation on whether to enter into or proceed with the transaction. The Complainant Buyer stated there was a TennCare lien in the amount of \$140,000, which is higher than the selling price. The Complainant Buyer became aware of the lien from the Respondent’s attorney and the closing company the day before the original closing date.

The Respondent provided a response and stated they not aware of the TennCare lien prior to the Complainant Buyer’s offer on the property. When the property was listed, the Respondent obtained all the information about the property and completed a property intake sheet. The property owner’s sister and power of attorney, did not disclose the TennCare lien when the property was listed with the Respondent and the Respondent’s firm. The Respondent was unaware of the lien until notified by Foundation Title. The property owner’s sister and power of attorney was not even aware of the lien on the property and the Respondent worked to have the lien removed immediately, including having her personal attorney assist the Seller’s sister in having the lien removed. The Complainant was advised of the lien prior to the closing date. The Complainant was advised of the lien in late September 2019 and could have terminated the contract. Instead, the Complainant agreed to extend the closing date and proceed with the transaction. The Respondent did not misrepresent or fail to disclose the lien.

The Respondent was not aware the property was grossly infested with termites and needed immediate treatment and did not fail to disclose the information to the Complainant Buyer. The termite inspection was performed in September 2019 and a report was received and the report specifically stated: “termite shelter tubes found on block foundation in crawlspace.” The report provided absolutely no indication that the property was grossly infested with termites or even indicated that live insects were present. The Respondent did not have any conversations with the termite company or the inspector and was unaware of any termite infestation that required immediate treatment. The Wood Destroying Insect Inspection does not state that there was an infestation or that there were live insects present.

The Complainant decided in December 2019 to have the property dry locked in order to keep the termites from causing damage based on the termite inspection. There were no active termites on the property, nor a water leakage issue. Also, the Repair/Replacement Amendment, there was no issue with a repair request made by the Complainant with respect to a water leakage.

The Respondent states the property was accepted by the Complainant “AS IS” and the amendment did not make any mention of the termite inspection or treatment, which had been previously included in the special stipulations section of the PSA. The Respondent proceeded without

performance of the termite treatment, since the Amendment did not specifically reference the termite issue or incorporate the special stipulations section of the PSA. The Amendment did not reference the termite inspection or incorporate the special stipulations section of the PSA and therefore, was no longer applicable and the Amendment superseded the original contract. It appears the Complainant understood this differently and thought that the PSA still controlled and termite treatment and clear termite letter would still be provided at closing. The Complainant misunderstood what was required of the Seller after the Amendment was executed.

When the Repair/Replacement Amendment was executed, the Complainant Buyer agreed to accept the property "AS IS." When the Complainant Buyer was upset with the termite treatment not being performed at closing, the Respondent agreed to pay for the termite treatment and the property was treated on November 7, 2019 with a one year warranty. The Complainant should not have had to incur any additional out-of-pocket expenses related to the termites.

There were no allegations against the Respondent firm.

**Recommendation: Close.**

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

**22. 2020014981**

**Opened: 4/7/2020**

**First Licensed: 3/9/1987**

**Expires: 12/19/2019 – EXPIRED - UNINSURED**

**Type of License: Affiliate Broker**

**History: 2020 Close and Flag and Refer to Outside Agency for the violation of withholding deposits and payments**

Complainant alleges the Respondent Property Manager failed to send rental income and account statements from July 2019 until April 2020. The Complainant reached the Respondent in July and stated that she had contacted her and told her that she would send the monies and not to come to her office. The Complainant never received the monies, but did receive the statement and when the Complainant later tried to contact the Respondent, the phone number was disconnected. The Respondent passed away on December 22, 2019. This was confirmed by a former associate that worked with the Respondent. There was no funeral or obituary.

**Recommendation: Close.**

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

**23. 2020020461**

**Opened: 4/7/2020**

**First Licensed: 1/5/2015**

**Expires: 2/28/2022**

**Type of License: Real Estate Broker**

**History: 2017 Letter of Warning for Advertising Violation**

The Complainant alleges the Seller's Real Estate Broker had agreed to make repairs two days before the closing. After the Complainant moved into the property, the only item that was repaired was the ladder into the attic above the carport. Complainant Buyer's Real Estate Broker was regularly checking on if the repairs were completed with the Seller's Real Estate Broker. The Complainant alleges the Respondent was dishonest.

The Respondent provided a response and stated a real estate broker cannot agree or sign off on any repairs and do not have the ability to contract for repairs. The Seller was responsible for the repairs and agreed to make the repairs and the buyer and buyer's real estate broker are responsible to inspect those repairs and make sure they are completed and acceptable. Otherwise, the Buyer can cancel or delay closing. The Respondent claims the seller had completed all the repairs prior to the two day deadline before the closing date. The Respondent stated the Complainant Buyer and Real Estate Broker performed a final walk through of the property and contacted the Respondent to advise the trash had not been removed and the ladder had not been repaired. The Respondent stated the handyman was confused and did not know there was a ladder for the carport and thought the only attic was in the home because it is uncommon to have another attic above a carport. The Seller also removed five trash bags of Christmas decoration and put them beside the trash can for the trash company. The Complainant's Real Estate Broker contacted the Respondent and asked about the repairs and the trash and the Respondent advised his client that they should be removed. The Respondent states the Seller was supposed to go pick up all the trash bags on the day of the closing and remove them. The Seller went three days later to pick them up and the trash bags were removed and knocked on the door to speak to the Complainant. The Respondent claims the Complainant signed the "Changes to Report" on the disclosure documents and did not postpone the closing.

**Recommendation: Close.**

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

**24. 2020022261**

**Opened: 4/7/2020**

**First Licensed: 4/20/2011**

**Expires: 5/30/2021**

**Type of License: Real Estate Broker**

**History: 2019 Consent Order for Failure to Exercise Reasonable Skill and Care**

The Complainant was in the process of moving to Tennessee for a job and needed a real estate broker and found a local broker who was familiar with the area and could help them find a home. The local broker referred the Complainant to the Respondent who was not familiar with the area when showing homes and pressured the Complainant to sign a Buyer's Agreement when the Complainant wanted to wait to arrive in Tennessee before signing any documents. The Complainant alleges the Respondent told the Complainant that appointments could be set-up and the Complainant could not use them full-time when the Complainant arrived in Tennessee. The Complainant stated that because there were some time pressures, the Complainant reluctantly signed the documents. After the Complainant arrived in the area and started to look at other homes,

the Complainant realized that the Respondent was not familiar with the area and did not know the area and unable to answer basic questions about the area or give false information. The Complainant alleges the Respondent rushed them along and only gave them five and half hours the first day and four and half hours the second day to look at homes. Complainant alleges the Respondent told them what they wanted did not exist at the price point or the area. The Complainant expressed they were unhappy with the service received from the Respondent and wanted to part ways and offered to compensate them, but the Respondent refused to terminate the agreement and stated it was legally binding. The Complainant alleges the Respondent did not provide reasonable skill and care and abused their influence as a real estate broker.

Respondent, Respondent's Broker and Respondent's personal assistant provided a written response to the complaint. All responses indicate that the Respondent lived in the area for 10 years and was familiar with the area and had sold many homes to out-of-state buyers. The Respondent even agreed to preview homes with the Complainant via FaceTime prior to the trip to the area and the Respondent refused. The Complainant stated he was satisfied with the level of service provided and asked the Respondent to sign a Buyer's Representative Agreement and the Respondent wanted to wait until they met, however, the Respondent preferred it be signed in advance since her associate would be showing the Complainant the homes and wanted to make sure the Complainant was committed so that the Respondent could begin the process of scheduling showings, arranging for someone to help them due to the unavailability of the Real Estate Broker for the two day period and the other responsibilities of showing homes to a potential buyer. Also, since the Complainant wanted to see approximately 22 homes in a two day period, the Respondent felt it was important to get the representation agreement signed by the Complainant. The Respondent's Broker stated the Complainant understood the time spent with them was valuable and agreed to sign the Buyer's Representative Agreement. Also, since the area was a competitive market, it was important for the Respondent's Broker to get a firm commitment and ensure there was a formal realtor/client relationship. The Complainant signed the agreement four days prior to their arrival in the area and could have chose another real estate broker. The Respondent showed all homes that were on the Complainant's list and showed some homes a second time. The Respondent also offered to show homes in a different area, but the Complainant declined. The Respondent did not drive around aimlessly and there were no other homes that fit the Complainant's criteria. The Respondent's Broker stated the Complainant called to complain about the Respondent on the day of their departure and wanted another Real Estate Broker to assist them. The Respondent's Broker offered to show the Complainant more homes on another date, but the Complainant declined and wanted to cancel the Buyer's Representative Agreement. Respondent's Broker offered to have another individual show the remaining homes to the Respondent on the day of their departure, but the Complainant declined and stated he wanted another real estate broker and did not want to work with them anymore. The Respondent refused to release the Complainant from the agreement and told the Complainant they could not accept any other form of compensation for their time, except that listed in the agreement. The Respondent gave the Complainant four options: wait till the agreement expired, find a new real estate broker to do a referral, the Respondent could find a real estate broker to do a referral or continue to work with someone else within the firm to show him homes by FaceTime for in-person.

The Complainant told the Respondent they were unsure when they would be moving there and stated they had changed their mind and did not want to use a real estate broker and asked the

Respondent to continue to look for homes for the next couple of months and send videos or FaceTime the Complainant. The Respondent received a telephone call three days later from another real estate broker who was located in another part of the state and stated the Complainant contacted them and requested that they be their Real Estate Broker and asked about referral. The real estate broker that the Complainant contacted lived a five hour drive away in another part of the State. The Respondent agreed to sign the referral agreement and released the Complainant from the Buyer's Representative Agreement.

The Respondent stated the Complainant was unsure of what they wanted, the price point and search criteria. Also, there were many that were new construction and new subdivisions that are being built. The Respondent stated during the search they used GPS and it was difficult to know the exact location of each home, so it may have appeared as though the Respondent did not know where the homes were located. Also, lot numbers on new construction sites can be difficult to locate. The Respondent showed the Complainant over 15 homes and some of the homes were not even on the original list and the Respondent wanted to break for lunch during a break between appointments and the Complainant wanted to look at more homes in a new construction subdivision, even though the homes did not meet the Complainant's original criteria. The Respondent stated the Complainant wanted to go look at some of the homes with his sister (who lived in the area) and requested the codes to the homes, however, the Respondent advised the Complainant it would be a violation of law and unethical and could not give the Complainant the codes to the homes. The second day, the Respondent could not meet the Complainant until 11:30 am because of a previous lease signing appointment and the Respondent was disappointed. The Respondent stated the Complainant was disappointed with the home search during the short time period and was upset the Respondent was not available to show homes the morning before the Complainant took a flight home. The Complainant told the Respondent they wanted to cancel the Buyer's Representation Agreement and the Complainant had changed their mind and no longer be moving to Tennessee. The Respondent advised the Complainant the Buyer's Representation Agreement would just expire and later the Complainant changed his mind and asked the Respondent to continue to look for homes, send videos and FaceTime the Complainant.

**Recommendation: Close.**

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

**25. 2020022621**

**Opened: 4/7/2020**

**First Licensed: 11/5/2014**

**Expires: 11/4/2020**

**Type of License: Affiliate Broker**

**History: None**

The Complainant is going through a divorce and the spouse has temporary exclusive possession of a marital residence with an included statutory injunction pursuant to Tenn. Code Ann. 36-4-106(d) against either party dissolving any marital property. The Complainant stated the spouse is removing property from the marital property and the Sheriff's Department contacted the Complainant and also advised the Complainant the home had a For Sale sign on the property. The

Complainant contacted the listing agent and the agent stated that he was in the process of obtaining a listing agreement and it would be listed by the end of the day. The Complainant checked one week later and the home still had a For Sale sign in the yard and the Complainant again contacted the listing agent. Upon checking with the affiliate broker, he indicated to the Complainant he was still on the process of obtaining the signatures. The Complainant alleges the Respondent has violated the advertising rules (Tenn. Rules & Reg. 1260-02-.12(3)(d)).

The Respondent provided a response and stated the Complainant's soon to be ex-wife contacted the Respondent to list the home. Respondent was told the home was owned by the ex-wife and the Complainant was paying the mortgage until it was sold and the ex-wife would receive all the proceeds from the sale of the home. The Respondent claims the ex-wife and attorney informed the Respondent the sale of the home had been ordered by the court and the home needed to be listed as soon as possible. The Respondent inquired about whether the husband was agreeable to the sale and was informed by the soon to be ex-wife, the spouse was agreeable. The Respondent also disclosed and divulged irrelevant private and personal information concerning the soon to be ex-wife in his response. The Respondent obtained a signature from the ex-wife, but did not get the signature of the husband and was told the signature would be forthcoming. The Respondent placed a "FOR SALE" sign in the yard of the property and had not obtained a signature from both parties for the listing agreement and failed to contact the husband. The Respondent stated he was not aware of any objections to the sale of the home. The Respondent never obtained or requested the Final Decree of Divorce or any documentation from the soon to be ex-wife or the attorney representing the ex-wife in the divorce proceedings. The Complainant provided a follow-up and indicated there is no order that was issued from any Court concerning the sale of the property. The only order that has been issued denied his wife an order of protection and set the preliminary parameters for alimony, child support and visitation of the children. The final divorce decree has not been issued by the court. The Complainant reiterated the Respondent never contacted him in any way.

**Recommendation: \$500 civil penalty for the advertising violation.**

**Decision: The Commission elected to dismiss the complaint.**

**26. 2020017251**

**Opened: 4/7/2020**

**First Licensed: 4/1/2005**

**Expires: 10/9/2020**

**Type of License: Real Estate Firm**

**History: 2012 matter closed and flagged in 2019 for fraud**

The Complainant alleges the original developer and current property manager of an HOA turned over the development to the current developer. The current developer elected the first Board of Directors and the Complainant acts as the Treasurer and was not provided access to the initial financial depository accounts and had to review the financial condition of the association based on the original developers records. As a result, there were multiple issues that arose concerning duplicate payments and payments over the amount allowed in the management contract. The

original developer refuses to provide the invoices and continues to ignore the requests of the Complainant.

Respondent stated the property is still being developed and there are no records to be turned over as of yet.

**Recommendation: Close.**

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

**27. 2020014991**

**Opened: 4/13/2020**

**First Licensed: 7/26/2002**

**Expires: 10/30/2020**

**Type of License: Real Estate Firm**

**History: None**

Complainant, a homebuyer, states the Respondent, real estate firm and an affiliate broker fraudulently misrepresented the lot and home sold to the Complainant. The Complainant stated the Respondent requested to have written assurance no home would be built next to the lot purchased by the Complainant. The Complainant contacted the tax assessor to obtain property line information to have fencing installed and discovered the affiliate broker had only shown a partial plat during the sale of the lot to the Complainant. The tax assessor provided the Complainant with a full page plat map that shows that there are two homes platted for building next to the Complainant's lot. Based on the affiliate broker's representations, the Complainant incurred considerable expense in enclosing a patio, installing heat and air into the patio area after purchasing the home to maintain privacy and stated the view from the Complainant's property will be impeded when those homes are built next to the Complainant. Also, the Complainant suggested the value of the Complainant's property will decrease when the homes are built in the adjoining lots.

The Respondent provided a response and stated there was no misrepresentation. The Respondent was contracted as a Facilitator for the transaction and performed the duties with the utmost respect and professionalism. The developer decided not to keep the lots as common areas. The Complainant threatened legal action against the Respondent and the home builder on multiple occasions and made multiple demands to resolve the situation. The Respondent attempted to try to facilitate a resolution and was unsuccessful. The Respondent stated the developer had indicated to the Respondent the lot beside the Complainant's lot was a common area and the plans included incorporating a park bench and grassy area. No written assurance was ever provided by the Respondent or the builder concerning the adjoining lots. After the Complainant made numerous complaints to the Builder, the Builder reduced the price of the home from \$270,200 to \$255,200. The Respondent also stated the Complainant signed an Amendment to the contract agreeing to move forward with the transaction amicably and without any legal or derogatory action.

**Recommendation: Close.**

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

**28. 2020011401**

**Opened: 4/13/2020**

**First Licensed: 9/12/2018**

**Expires: 9/11/2020**

**Type of License: Vacation Lodging Service Firm**

**History: None**

The Complainant is a former employee of the Respondent. The Respondent is a vacation lodging firm with properties in Tennessee. The Complainant alleges the Respondent is operating the vacation lodging service firm without a designated agent because the prior designated agent is no longer employed by the firm. The Complainant also alleges the homes listed on the website are not the Respondent's homes and some of the homes listed are not even in the same state as advertised.

The Respondent provided a response and stated the complaint was filed by a former employee of the company and the registered agent has been replaced with another local designated agent. The Respondent represents homeowners in multiple markets and work directly with homeowners to ensure the properties are properly permitted when necessary, and the responsible party information is accurate and up to date.

**Recommendation: Close.**

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

**29. 2020020541**

**Opened: 4/20/2020**

**First Licensed: 8/21/2015**

**Expires: 8/20/2021**

**Type of License: Affiliate Broker**

**History: None**

The Complainant, the buyer of a home alleges the Respondent, an affiliate broker was dishonest and failed to properly disclose the exclusive nature of the Exclusive Buyer Representation Agreement when the Complainant made an offer was made on a home. The Complainants claimed they were unaware they signed an Exclusive Buyer Representation Agreement when they made an offer on a home and allege the Respondent shared confidential information with a third party. The Complainant states the Respondent shared personal financial information with the Complainant's lender during the home buying process.

The Respondent provided a response and stated the Complainants entered into a real estate relationship with the Respondent in September 2018 and for the next three months, the Respondent spent approximately 150 hours communicating, searching and actively showing homes to the Complainants. The Respondent stated the Complainants made a decision to stop searching for a home for multiple reasons and wanted to compensate the Respondent for the time spent in showing

them homes. The Respondent believed the Complainants had postponed their home search and would resume the search at a later date. The Respondent was requested to continue to send home listings electronically and continued to periodically send the Complainants home listings by e-mail. Later, the Respondent learned the Complainants had purchased a home with another agent. The Respondent contacted the Complainants in an effort to seek compensation in accordance with the signed agreement with the Respondent. The Complainant refused and the Respondent filed a lawsuit against the Complainants for breach of contract and payment. The Respondent stated no confidential information to any third parties to any individual and provided additional proof from the lender's agent stating no confidential or privileged information was given to the third party. The Respondent prevailed in the lawsuit against the Complainants and was awarded compensation for the breach of contract lawsuit.

**Recommendation: Close.**

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

**30. 2020020701**

**Opened: 4/20/2020**

**First Licensed: 9/29/2005**

**Expires: 9/28/2021**

**Type of License: Affiliate Broker**

**History: None**

The Complainant, the fiancé of a home buyer alleges the Respondent, an affiliate broker, was threatening and harassing his pregnant fiancée with text messages concerning using another agent to purchase a home. The Complainant alleges his fiancée did not enter into a Buyer's Representation Agreement with the Respondent. There was no proof of threatening or harassing communications in the complaint.

The Respondent filed a response and stated the Respondent has been working with the fiancée of the Complainant for a new home since October 2019. The Respondent stated he had been involved in a four year relationship with the Complainant's fiancé that ended in late 2019 and the Complainant's fiancée had agreed to allow the Respondent to sell her home at a discounted commission and also to represent and facilitate the purchase of a vacant lot and home. The Respondent did not provide a Buyer's Representation Agreement with the response.

**Recommendation: Close.**

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

**31. 2020026101**

**Opened: 4/20/2020**

**First Licensed: 5/11/2005**

**Expires: 11/24/2020**

**Type of License: Real Estate Firm**

**History: None**

The Complainant, a home buyer, alleges the Respondent real estate firm listed a home for sale unlawfully because the granddaughter of the deceased owner did not have the authority to sell the home. Prior to the Seller's death, there was a reverse mortgage on the property and the Seller was in default. The Seller died in August 2019. The Seller had been sent several notices of the default and the home was foreclosed upon in March 2020. The notices were mailed to the property address. The home had been listed for sale after the foreclosure and after it had been purchased by a party at foreclosure sale. The Complainant made an offer on the property the day after the foreclosure sale and had a home inspection done on the home. The Respondent was notified by the Complainant's attorney to remove the listing and also advised the Seller's granddaughter had no authority to sell the property. The Complainant alleges the affiliate broker was also notified and aware of the possibility of an unauthorized listing, but failed to inform the Complainant. As a result, the Complainant incurred expenses from the home inspection and inspection by a HVAC company.

The Respondent firm and the affiliate broker provided a response and stated the Respondent and the personal representative of the deceased Seller were unaware of the pending foreclosure when the property was listed for sale. The personal representative provided the Respondent with the necessary legal documents from the Probate Court designating the personal representative's authority to sell the property to satisfy the loan and any liens against the estate of the Seller. The Seller died in August 2019 and the personal representative was unaware of the reverse mortgage on the property, default and subsequent foreclosure until March 19, 2020. This information was unknown by any of the involved parties until March 17, 2020. The Respondent affiliate broker was contacted by the new owner on March 17, 2020 and stated he purchased the property in a foreclosure sale. The property was foreclosed and sold by foreclosure auction on March 3, 2020. The Respondent affiliate broker immediately contacted the estate attorney for the Seller and notified the attorney of the foreclosure and foreclosure sale.

**Recommendation: Close.**

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

**32. 2020021861**

**Opened: 4/20/2020**

**First Licensed: 8/23/2017**

**Expires: No Expiration**

**Type of License: Time Share Registration – Time Share Exempt**

**History: None**

The Complainant and her family went to a vacation resort and allege her and her daughter were pressured to each purchase a time share during a sales presentation. Additionally, the Complainant alleges the Respondent opened credit card accounts in both her husband and daughter's name. The Complainant was able to cancel the credit cards, however, none of the parties want to purchase any interest in the timeshare. The Complainant has repeatedly been trying to have the Respondent issue a refund.

The Respondent provided a response and stated the Complainant used her own credit card and a vacation club credit for the down payment for the timeshare purchase. The Respondent stated they were not aware of any issues concerning the purchase transaction, however, it would investigate further. The Respondent later followed-up and provided a supplemental response and stated it will immediately cancel both contract and refund all the amounts paid by both parties to resolve any issues.

**Recommendation: Close.**

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

**33. 2020018261**

**Opened: 5/4/2020**

**First Licensed: 6/30/2011**

**Expires: 6/29/2021**

**Type of License: Real Estate Firm**

**History: None**

The Complainant Purchaser was conducting the walk through before closing and none of the items required to be repaired had been completed that had been identified in the home inspection report as agreed. As a result, the Complainant was unable to close on the day of the closing and had to stay in a hotel. The Seller had no knowledge that repairs were needed because all communications were with the Seller's contractor. The parties agreed to an escrow of \$5,000 for the structural report and noted the repairs needed were listed on the structural report. The Complainant had the repairs completed. The Complainant also stated the home was listed as being on a sewer system, however, the home actually had a septic system. The Complaint filed a lawsuit against the Respondent for breach of contract for failing to disclose the septic system and did not prevail in the lawsuit. The Complainant is attempting to sell the home and stated the home is only approved to be a three bedroom home because of the sewage disposal system dated from 1987 and all documents (appraisal report, MLS listing and home inspection report) list the home as a four bedroom home. The problem with the septic system is that it is permitted to be a system for a three bedroom home. Additionally, the Complainant was informed that in the event a potential buyer is approved for a FHA or VA loan, the Complainant would have to convert the system to the sewer system for a projected cost of about \$10,000. The Complainant contacted the city sewer department and discovered there was a conversion of homes from septic systems to the city sewer system in the 1980s and some elected to continue on a septic system and had to still pay a small sewer bill and were recorded as being on sewer by the city. However, the property is not on the sewer system and was recorded as being on the sewer. The Complainant stated the problem is also with wrong city records on file. This has caused the Complainant a hardship and the inability to sell the home as a four bedroom home.

The Respondent provided a response and stated the Seller did not perform the necessary repairs as agreed upon in the Purchase and Sale Agreement and it was only discovered during the final walk through with the affiliate broker. The Respondent advised the Complainants not to close on the property until all repairs were completed or an escrow agreement was drafted to sufficiently to cover the repairs. The Seller's transaction was being handled by a contractor friend and there were

many miscommunications. After an Escrow Agreement was prepared and signed by the parties, the money in the escrow agreement was used to pay for the repairs. The Respondent stated the sewer/septic issue was unforeseen and the MLS listing clearly states the home is on sewer. The home inspector did not provide any information about the home being on a septic system, but the home was listed as being on sewer. Also, the Seller did not provide any information stating the home was actually on a septic system.

**Recommendation: Close.**

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

**35. 2020023381**

**Opened: 3/31/2020**

**First Licensed: 8/21/2013**

**Expires: 8/20/2017**

**Type of License: Vacation Lodging Service Firm**

**History: None**

Complainant is an out-of-state resident. Respondent is a licensed VLS.

Complainant states that they had a reservation for March 28, 2020 through April 1, 2020 which was paid in full. Complainant has attempted to reschedule the reservation due to the COVID-19 pandemic and the executive order limiting gatherings to groups of no more than ten (10) people. Respondent stated that they would allow it, but only if Complainant paid a fee of \$431.00. Complainant attempted to negotiate, but this led to the Respondent threatening to cancel the reservation with no refund. Complainant attached a supporting email.

Respondent filed a response stating that they were not aware of travel restrictions at the time that the Complainant requested to change their reservation. Respondent states that they have a strict cancellation policy which states that there would be no refunds or rescheduling. The Respondent offers the option to purchase a deposit protection plan at the time of booking, which guarantees a full refund up to sixty (60) days prior to arrival. Respondent states that due to the circumstances, however, they have allowed for all guests with bookings prior to April 6, 2020 to receive future credit vouchers.

**Recommendation: Dismiss.**

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

**36. 2020013841**

**Opened: 4/7/2020**

**First Licensed: 1/31/2001**

**Expires: 4/5/2020 – EXPIRED – GRACE, ACTIVE**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant is the tenant of the property they rent. Complainant states that they received a call from Respondent at 9:00am on February 16, 2020 stating that they wanted to show the property later that day at 2:00pm. Complainant would not allow the showing as the lease requires twenty-four-hour notice for showings. Complainant states that Respondent called their spouse and started yelling and demanding that they allow Respondent to show the house. Respondent also allegedly threatened to enter the property despite Complainant's lack of consent. Complainant stated that they changed the locks and Respondent would not be able to gain entry. The Respondent arrived at Complainant's home the next day with a deputy sheriff. Complainant continued to attempt to set up a time for showing the house that would work for both parties. Following the showing, the Complainant received a notice of eviction. Complainant attached a copy of the lease agreement.

Respondent filed a response stating that the Complainant changed the locks on the property without permission. The Complainant also did not allow entry for inspection numerous times which stopped the house from being marketed for sale. Respondent denies making threats or harassing the Complainant. Respondent states that there is a civil lawsuit filed with the court.

Complainant filed a rebuttal stating that the complaint is not because of the eviction proceedings, but rather, the complaint was filed because Respondent deliberately made untruthful accusations in order to cheat them out of the \$2,000 security deposit and the \$400 pet deposit. Complainant denies any damage to the property and that they were entitled to their security deposit.

**Recommendation: Dismiss. The allegations complained of sound in landlord/tenant law. The Respondent was the owner of the property and therefore the appropriate venue would be state court to resolve this matter.**

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

**37. 2020017931**

**Opened: 4/7/2020**

**First Licensed: 7/6/2018**

**Expires: 7/5/2020**

**Type of License: Affiliate Broker**

**History: None**

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that Respondent (Buyer's agent) let outside contractors into their home without their permission and for unknown reasons. The contractor went into the Complainant's attic and fell through their kitchen ceiling, leaving a hole in the ceiling. The contractor also damaged the kitchen cabinets. Complainant states that Respondent refused to fix the damages.

Complainant also alleges that Respondent is the granddaughter of the Buyers but did not disclose this information.

Respondent filed a response stating that they did have permission from the Complainant's listing agent to allow contractors into the property on February 3, 6, 18, and 27. Respondent states that the hole in the ceiling was an accident that happened during a bid that they had written permission to obtain. Respondent states that they were willing to repair the damage and this is indicated in the addendum signed by all the parties. Respondent also alleges that the listing agent was made aware at the open house that their clients were Respondent's grandparents. Respondent attached the transaction file documents and text messages.

Complainant filed a rebuttal stating that the Respondent admits to being in the house and being aware of the damage, but not notifying Complainant's agent. Complainant alleges that Respondent admitted to not having permission to enter the property with the contractors during a phone conversation. Complainant attached copies of text messages.

**Recommendation: Counsel reviewed the text messages provided by both parties. Based upon the messages, it appears that the Complainant's agent gave Respondent permission to conduct a home inspection with the contractors. The text messages also show that Respondent's client offered to pay for the hole in the ceiling if the closing did not go through for some reason. Dismiss.**

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

**38. 2020018681**

**Opened: 4/7/2020**

**First Licensed: 6/22/2006**

**Expires: 6/21/2020**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent failed to disclose to them that some furniture items would be sold with the home. Complainant believed that the furniture would be removed at closing; however, the furniture was not removed. Complainant closed on the property on March 3, 2020. As of March 11, 2020, the items had not been removed from the property. The Respondent acknowledged that they failed to disclose that the furniture would be sold with the house and promised to take responsibility for the removal of the property. The Respondent did not completely remove all of the items and has been unresponsive to phone calls from the Complainant's agent. Complainant attached a copy of the Buyer's final inspection which states that the furniture and trash would be removed prior to closing.

Respondent states that they went to Complainant's property on March 10, 2020. The Complainant and their spouse helped to load the trash bags and a piece of furniture into Respondent's van. Respondent states that they had someone go to the home again on March 12, 2020 to pick up the remaining furniture, which was brought back to Respondent's home. Respondent states that the Complainant had not moved into the home at the time the complaint was filed as they were conducted renovations to the home.

Complainant filed a rebuttal stating that they filed a complaint with the Better Business Bureau and this is what prompted the Respondent to remove the items from the property.

**Recommendation: Letter of Warning regarding reasonable skill and care.**

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

**39. 2020020901**

**Opened: 4/7/2020**

**UNLICENSED**

**History: None**

Complainant is an out-of-state resident. Respondent is a timeshare salesperson.

Complainant alleges that Respondent may be engaging in unlicensed activity.

To date, Respondent has not provided a response to the complaint.

Counsel conducted independent research finding that Respondent is acting as a timeshare salesperson for an unregistered timeshare corporation.

**Recommendation: \$1,000 civil penalty for Respondent's failure to respond and open a complaint against the unregistered timeshare program for unlicensed activity.**

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

**40. 2020022081**

**Opened: 4/7/2020**

**First Licensed: 9/29/2014**

**Expires: 9/28/2020**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent will not return their earnest money even though their contract was determined to be non-binding. Complainant states that the contract was not binding because the Respondent allegedly took the previously signed contract and addendum and had the second seller's name handwritten on these documents rather than correcting the documents via an addendum to reflect the second seller's signature. Complainant alleges that the Respondent

resubmitted the documents to the lender in an attempt to correct the non-binding concern. Complainant states that they have made multiple requests to return the earnest money via written and verbal request. Complainant attached the following documents:

- Purchase and sale agreement (PSA)
- Mutual release of PSA and disbursement of earnest money
  - Dated 2/21/2020
- Counteroffer #1
- Confirmation of agency status
- Residential property condition disclosure
- Accepted offer by Buyer

Respondent filed a response stating that the PSA was signed by Seller #1 who had power of attorney for Seller #2. Respondent alleges that the issue with closing involved a third party appraisers' contractual issue. Respondent states that they along with the Complainant's agent, had a phone conference with the lender in which the loan officer's supervisor stated that the delay was not due to the Respondent. Respondent states that Seller #1 e-signed for Seller #2 on the PSA, but Respondent had to get a handwritten signature because the Respondent didn't know how to get the second seller's e-signature with the same email. Respondent alleges that explained this to the Complainant's agent. Respondent states that the Complainant wanted to terminate the PSA due to delays in closing. Respondent advised the Complainant would forfeit the earnest money. That is when the Complainant stated that the contract was not binding because it was not signed by both Sellers. Respondent attached the following documents:

- Counteroffer #1
- Recorded phone call with lender
- Text messages from Complainant's agent
- Amendment #1 to the PSA
- Email from the title attorney stating that Respondent is entitled to earnest money
- Copy of POA from Seller #2
- Mutual release by Seller indicating that the Buyer forfeits the earnest money
  - Dated February 11, 2020

Complainant filed a rebuttal stating that the recording indicated that signatures were missing, which is why the appraisal had not been released. Complainant states that the counteroffer had a signature by power of attorney with no date. Complainant believes that Respondent violate Tenn. Comp. R. & Regs. 1260-02-.09(8) and (9). Complainant further states that the contract expired on February 4, 2020 as Complainant declined to grant an extension to the closing date. Complainant attached the following documents:

- Email from Respondent
- Closing date addendum #2

**Recommendation: \$500 Civil Penalty for failure to comply with Tenn. Comp. R. & Reg. 1260-02-.09(9), which requires a licensee to disburse, interplead, or turn over to an attorney with instructions to interplead funds within 21 calendar days from the date of receipt of a written request for disbursement. The written request was submitted by the Respondent on February 12, 2020, which would have required one of the three options listed above to occur by March 4, 2020.**

**Decision: The Commission elected to close the complaint against the Respondent and to administratively open a complaint against the Principal Broker.**

**41. 2020022491**

**Opened: 4/7/2020**

**First Licensed: 11/6/2013**

**Expires: 9/30/2021**

**Type of License: Principal Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent was never available for a professional meeting, including showing the home; the final walkthrough; and the closing. Complainant states that Respondent sent a colleague to assist Complainant via phone or text. Complainant states that they had several issues during the post-walkthrough including issues with the heating and air conditioning. Complainant states that they had to purchase another thermostat, and have it installed to get the heating and air operational, which delayed the move in date by one week. Complainant also states that Respondent lacked professionalism in helping them to address issues discovered during the home inspection. Finally, Respondent did not appear at the closing and had no one to stand in for them. Complainant states that they did not receive any of their paperwork at the closing.

Respondent filed a response stating that they personally showed Complainant two homes of which they made offers on both. Respondent states that they worked with Complainant and the listing agent to set up the final walkthrough at 4:30pm on 2/20/2020. Complainant was aware that Respondent would be traveling from out-of-state for the walkthrough appointment. Respondent states that they experienced unexpected travel delays due to traffic and weather and called complainant at 2:39pm on 2/20/2020 to notify Complainant that they would not be able to make it in time for the walkthrough. Respondent made arrangements for another one of their agents to meet Complainant at the walkthrough on Respondent's behalf. Respondent also stated that the agent could video conference them in if any issues arose during the walkthrough. Respondent admits that they did not attend the closing, but this is not uncommon in Respondent's practice. Respondent states that the clients are always provided with an electronic or hard copy of the closing documents. Respondent states that they disclosed to Complainant that they manage real estate offices out-of-state and in Tennessee and that they may not always be available to personally show homes on all appointments, but that a trusted agent would be utilized if they ever were unavailable. Respondent states that they conducted all other aspects of the transaction, including negotiations.

Respondent states that Complainant understood this arrangement and acknowledged that it was acceptable. With respect to the home inspection report, Respondent states that they received the report on 1/22/2020. They discussed the items that Complainant wanted the Seller s to address. They also discussed the Complainant thought would have to be completed for the property to meet the FHA loan requirements. Respondent communicated these items to the lender and relayed the conversation to Complainant. Respondent then prepared a repair proposal to address the identified items and sent it to the Sellers. The heating and air conditioning was addressed in the repair addendum, so when Complainant had issues related to the heating and air conditioning at the final walkthrough, the Respondent reached out to the listing agent with pictures showing the issues. The listing agent advised that they would have contractors come out to address the issues. The Sellers paid for the repair. After this was completed, they conducted the closing. Once the closing was over, the Respondent received a text stating that the closing was successful. Respondent states that they checked in with Complainant and they stated that the closing went well. When Complainant moved in that is when they discovered that the items that were present at the final walkthrough had been removed by the Sellers prior to Complainant moving into the home. The listing agent was unaware of this. The thermostat was removed by the Sellers because they discovered that it was connected to a leased security system that would cost \$1500 to terminate. Because of this, the Sellers replaced and removed the thermostat. When Complainant moved in they also found issues with the storm door, which was not identified in the home inspection report. The Complainant reached out to Respondent via letter asking them to talk with the Sellers about this. Respondent forwarded the concerns to the listing agent who then advised that the Complainant speak directly with the Sellers as Complainant was threatening to hire an attorney. Complainant informed Respondent that they were in communication with the Sellers.

**Recommendation: Dismiss. It appears that the Complainant had issues with the home post-closing that were not identified in the home inspection report. All other issues involving the agent do not appear to be actionable issues.**

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

**42. 2020025691**

**Opened: 4/7/2020**

**First Licensed: 2/14/2006**

**Expires: 7/20/2021**

**Type of License: Principal Broker**

**History: 2011 Letter of Warning for entering into contracts with an out of state forum for conflict resolution; 2018 Agreed Citation for failure to list firm license number on advertising (sign)**

Complainant is a real estate licensee. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent copied a significant portion of their advertising content description into their listing for a property in the same subdivision as Respondent's listing.

Complainant alleges that Respondent plagiarized their advertisement. Complainant states that it is unethical for Respondent to make money from content that did not belong to them.

Respondent filed a response stating that the listing was a limited service listing so the Seller provided the description for the MLS and it was not written by Respondent's firm or agents. Respondent states that they are unaware of Complainant's advertisement being copied and they only submitted what the Seller provided to them.

Complainant filed a rebuttal stating that discounted flat rate services do not imply that neither sellers write out descriptions and provide photos for a property. Complainant states that the property is entered into the MLS so it is the responsibility of the listing agent to ensure accuracy and to prevent copyright and plagiarism violations and to provide description and photos for a property as they represent their clients or contractual parties. Complainant cites the standards of practice as outlined by the Realtors Code of Ethics. Complainant alleges that Respondent breached their duty to their former client/ Seller by allowing their client to provide photos and descriptions and failing to ensure that there were no copyright or plagiarism violations.

**Recommendation: Dismiss. This complaint sounds in ethics, which the Commission does not have statutory authority to regulate.**

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

**43. 2020019401**

**Opened: 4/13/2020**

**First Licensed: 2/21/1989**

**Expires: 5/23/2021**

**Type of License: Principal Broker 206385**

**History:**

Complainant is a Tennessee resident. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent used a document during the real estate transaction at issue, which contained forged signatures on the transaction documents. The real estate transaction involved the sale of the Complainant's deceased parent's property. Complainant is one of 5 siblings. Complainant states that one of their siblings forged documents that allowed them to receive all proceeds from the sale of the property. Complainant states that they attempted to contact the Respondent on June 6, 2009 about the issues involving the transaction that occurred on August 31, 2006. Complainant attached the following documents:

- Warranty deed turning property over to the Buyer
  - Dated 8/31/06 and includes the signature of all siblings
- Certified mail receipt to the Respondent regarding the transaction
- An affidavit of heirship which lists all the siblings as heirs

- Affidavit from Complainant and siblings indicating that they knew of the sale but were unaware that there were any proceeds from the transaction because their sibling told them they did not receive any money from the transaction.

Respondent filed a response stating that the firm was dissolved in 2010 following the complained of transaction. Respondent denies any forgery occurred. Respondent states that one sibling had a quitclaim deed to the property. All of the siblings later signed over a warranty deed to the buyers of the property (all signatures appear on the warranty deed). The Complainant, along with the remaining siblings then signed a document directing all proceeds from the sale to one sibling. Respondent attached the following documents:

- Purchase and sale agreement (PSA)
  - Contains one sibling's name as seller and the Buyer's name
- Quitclaim deed
  - Dated 8/31/2006 which includes the deceased parent and one sibling. The one sibling's ex-spouse was originally included but conveyed the property to the sibling following their divorce.
- Death certificate of the parent who originally owned the property
- Affidavit of heirship which includes all siblings
- Payoff statement quote
- Warranty deed from one sibling to new buyer
- Document directing all proceeds to one sibling, signed by all siblings
- Settlement statement

Complainant filed a rebuttal stating neither their signature nor any of the other siblings' signatures appear on the closing documents; however, they do appear on the warranty deed in which they agreed to sell the property. The signatures on the warranty deed and on the distribution of proceeds documents are not the same, supporting the forgery allegation. Complainant further states that their parent never quitclaimed the property to one sibling.

**Recommendation: Dismiss. Aside from the fact that this complaint sounds in estate/probate matters as well as contract law, the transaction occurred in 2006 and therefore outside of the two-year statute of limitations.**

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

**44. 2020025171**

**Opened: 4/13/2020**

**First Licensed: 11/17/2003**

**Expires: 7/2/2021**

**Type of License: Principal Broker**

**History: None**

This complaint was opened administratively. Respondent is a licensed Principal Broker.

Complainant alleges that the following trust violations were found:

- A trust money deposit for one (1) contract was delayed by nineteen (19) days
  - Contract date – 9/28/2017
  - Deposit deadline – 10/3/2017
  - Earnest money deposited – 10/30/2017
- A trust money deposit for one (1) contract was delayed by six (6) days
  - Contract date – 11/9/2017
  - Deposit deadline – 11/14/2017
  - Earnest money deposited – 11/22/2017
- A trust money deposit for one (1) contract was delayed by one (1) day
  - Contract date – 1/4/2018
  - Deposit deadline – 1/9/2018
  - Earnest money deposited – 1/10/2018

Respondent filed a response stating that for the earnest money that was deposited 19 days late, the client had a contract on the home and the deal fell through. The clients found another house; however, the Respondent made a mistake in thinking that they had transferred the earnest money from one transaction to the other. Respondent admits to the fact that the other two earnest money deposits were late due to an oversight. Respondent has appointed a new principal broker to help with office duties and earnest money to ensure that all earnest money deposits are made timely.

**Recommendation: \$250 civil penalty for each trust account violation of T.C.A. § 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11) for a total of \$750.**

**Decision: The Commission elected to issue a \$500.00 civil penalty for the violations.**

**45. 2020025201**

**Opened: 4/13/2020**

**First Licensed: 1/16/1973**

**Expires: 8/1/2020**

**Type of License: Principal Broker**

**History: None**

This complaint was opened administratively. Respondent is a licensed Principal Broker.

Complainant states that upon audit of Respondent's banking records they discovered that operating expense checks were written out of the escrow account. Escrow money was occasionally held in the operating account.

Respondent filed a response stating that they do not challenge the findings. They do state, however, that they mistakenly wrote checks from the escrow account and did not realize it until the checks had already been mailed. Additionally, Respondent admits that when they knew the property was going to close they would transfer the funds out of the escrow account into the regular account. Respondent states that they have successfully closed down the escrow account and submitted the waiver form.

**Recommendation:** Civil penalty of \$1,000 and CE for violation of 1260-02-.09(13) which expressly prohibits comingling of funds.

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

**46. 2020025871**

**Opened:** 4/13/2020

**First Licensed:** 7/26/2017

**Expires:** 7/25/2021

**Type of License:** Vacation Lodging Service Firm

**History:** None

Complainant is an out-of-state resident. Respondent is a licensed VLS.

Complainant alleges that due to COVID-19 stay home orders they were forced to cancel their vacation rental at Respondent's VLS. Complainant reached out to the Respondent and were told that they could not have a refund.

Respondent filed a response stating that the booking was non-refundable. The booking was made through a third-party booking site. Respondent states that they offered to rebook the stay for future dates. Respondent has refunded the cleaning fee and damage deposit. Respondent provided proof that at the time of booking they stated that "canceled bookings will not receive a refund."

**Recommendation:** Dismiss.

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

**47. 2020024761**

**Opened:** 4/20/2020

**First Licensed:** 9/30/2013

**Expires:** 5/12/2021

**Type of License:** Real Estate Broker

**History:** 2016 Consent Order for failure to account for moneys belonging to others in a reasonable time and improper conduct

Complainant is a licensed Principal Broker. Respondent is a licensed real estate broker.

Complainant alleges that Respondent is in violation of Article 15 of the Standards of Practice and T.C.A. § 62-13-312(b)(10). Complainant alleges that Respondent advised, guided and coerced a client to file a complaint against Complainant. Complainant states that the Respondent made false accusations in a complaint that Respondent filed against them. Complainant also alleges that Respondent is in violation of their referral agreement because they did not issue the referral check within 7 days. Finally, Complainant alleges that Respondent tried to assist the client in terminating the buyer representation agreement that Complainant had with the client. Complainant also

provided a transcript of a phone conversation they had with Respondent in which Respondent expressed their disdain for how Complainant handled the transaction.

Respondent filed a response stating that they did not know that the client complaint refers to had filed a complaint against Complainant. Respondent states that they did express to the Complainant their opinion of how the Complainant handled the relationship with the client. Respondent denies the allegation that they attempted to help the client terminate their buyer representation agreement with the client. Respondent states that they did not violate the referral agreement as it states "Referral Fee will be paid to the Company referring the Buyer or Seller within seven (7) calendar days of receipt of compensation with a copy of a fully executed settlement statement." Due to the COVID-19 pandemic, the Respondent chose not to attend the closing in person, but was available remotely. The closing took place on March 12, 2020; however, they did not receive the commissions on that day because the closing attorney had to mail the commissions out. The closing check was ultimately received and cashed out by April 3, 2020. Respondent provided a copy of the referral check which is dated March 20, 2020.

Complainant filed a rebuttal stating that they believe Respondent has a strong dislike for them and that Respondent could have directed their feeling for Complainant to the client. Complainant states that the home closed on March 13, 2020 so the Respondent would have received the check on March 16, 2020 at the latest. The check was written for March 20, 2020, but not mailed out until Complainant called Respondent on March 24, 2020.

**Recommendation: Dismiss.**

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

**48. 2020025191**

**Opened: 4/20/2020**

**First Licensed: 9/6/1989**

**Expires: 8/13/2020**

**Type of License: Principal Broker**

**History: None**

This complaint was opened administratively. Respondent is a licensed real estate firm.

Complainant states that trust money for one (1) contract was delayed by eighteen (18) days.

Respondent filed a response via their attorney stating that the Buyers made an offer on the property on October 3, 2018. The sellers accepted the offer on October 4, 2018. Upon acceptance, the Buyers asked if they could bring the earnest money in person because they did not have a checking account. Buyers stated that they could bring the earnest money the following week. Respondent agreed to this because they knew all of the parties well and there were no other interested buyers. The property had been on the market since 2012. The Buyers brought the earnest money on October 19, 2018. The Respondent deposited the earnest money on October 19, 2018. They closed on the property on February 1, 2019. Respondent states that the reason for the delay was because of Respondent's longtime friendship with all of the parties involved.

**Recommendation: Civil penalty of \$250 for violation of T.C.A. § 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11).**

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

**49. 2020025291**

**Opened: 4/20/2020**

**First Licensed: 6/26/2015**

**Expires: 6/25/2021**

**Type of License: Affiliate Broker**

**History: 2019 Consent Order for dishonest or improper dealing**

Complainant is a Tennessee resident. Respondent is a real estate licensee.

Complainant alleges that Respondent and the Seller made misrepresentations on the MLS. Complainant states that they purchased the property because the Respondent informed them that the property was connected to a public sewer. After Complainant moved into the property, they discovered that their property had a septic tank rather than a public sewer. Complainant also states that they represented that the property had a two-car garage, but it actually was a one-car garage because half of it was converted to a laundry room.

Respondent filed a response stating that the tax record indicated that the property was connected to a public sewer. Respondent denies any intention to mislead or misrepresent. Complainant bought the home sight unseen. Complainant did not see the home until the day prior to closing and had a walkthrough conducted. With respect to the garage, the industry standard is sixteen feet or more and that is what the garage measured. Finally, Respondent states that the home was not an MLS listing, but was purchased from an investor group.

**Recommendation: Letter of warning regarding reasonable skill and care.**

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

**50. 2020025881**

**Opened: 4/20/2020**

**First Licensed: 9/2/2003**

**Expires: 11/19/2021**

**Type of License: Affiliate Broker**

**History: None**

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that Respondent listed a property for a Seller who did not have the authority to sell the home. The home had a reverse mortgage on it that was defaulted on by the grandparent of the Seller who is deceased. On September 16, 2019, the reverse mortgage company sent notice to the property owner that mortgage was in default and the home would be up for foreclosure on

March 2, 2020, therefore the Seller should have been aware of the default. Despite the foreclosure notices, the Respondent listed the home for sale on March 10, 2020 after it was already purchased by another party at foreclosure. Complainant states that they were unaware of this, so they made an offer on the property on March 10, 2020 and it was accepted by the Seller on March 11, 2020. Complainant states that they paid for a home inspection, which was completed on March 15, 2020. Complainant believes that Respondent knew or had reason to be concerned that the Seller was not authorized to sell the property. Complainant states that Respondent failed to do their due diligence during the transaction.

Respondent filed a response stating that they entered into an exclusive right to sell agreement with Seller to list the property on March 4, 2020. Respondent alleges that the Seller who was the personal representative of the estate was unaware of the pending foreclosure. Respondent states that the Seller provided them with the legal documents they received from probate court, which indicated that the personal representative had the authority to sell the property to satisfy the loan and liens against the estate. Respondent states that the personal representative did not reside at the property and therefore did not receive any foreclosure notifications. Respondent denies any dishonest actions. Respondent states that after the inspections and closing were completed, they received a call that same day from an individual who informed them that they had purchased the property on March 3, 2020 through a foreclosure sale. Respondent obtained the foreclosure trustee's information and immediately contacted the attorney for the estate. The attorney obtained proof of a legitimate sale. The Respondent discovered that the personal representative had no knowledge of this because the lender for the deceased had immediately sold the mortgage after receiving the deceased's notice of death. The new mortgage holder began sending foreclosure notifications to the deceased individual. The notices were sent one month prior to appointment of a legal personal representative who could communicate with the mortgage lender. Upon receiving this information, the Respondent contacted the Complainant's agent and sent supporting documentation.

**Recommendation: Dismiss. The Respondent had no way of knowing that the property was sold at a foreclosure sale prior to Respondent and the personal representative entering into an exclusive right to sell agreement. While the house was sold on March 2, 2020, the document memorializing the sale was not filed until March 11, 2020. The home was listed by Respondent on March 9, 2020.**

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

**51. 2020026921**

**Opened: 4/20/2020**

**First Licensed: 5/27/2008**

**Expires: 4/29/2020**

**Type of License: Principal Broker**

**History: None**

Complainant is a real estate licensee. Respondent is a licensed Principal Broker.

Complainant alleges that Respondent states on their website that they are the owner/principal broker of a firm, however, the webpage lists firm number at the very bottom of the page without the Respondent's name and license number. Complainant alleges that when they search for the Respondent's name it does not appear.

Respondent filed a response stating that they after receiving this complaint they reviewed their landing page for the website. Respondent states that the website is new and when they approved the site there was a header at the top of the page with their brokerage's information. Respondent states that their name and license number appears at the bottom of the page. Respondent states that they called the website builder and asked what happened to the header. The website builder stated that for some reason the header was not loading, but it is not. The firm number is listed as well as Respondent's information.

**Recommendation: Dismiss. The firm name and license number appears on the website, along with the firm's telephone number.**

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

**52. 2020012511**

**Opened: 4/20/2020**

**First Licensed: 9/29/2009**

**Expires: 9/28/2021**

**Type of License: Real Estate Firm**

**History: None**

Complainant is a Tennessee resident. Respondent is a registered timeshare resort.

Complainant alleges that their timeshare salesperson made misrepresentations to them regarding the use of their timeshare resort, point conversion, and upgrades to their timeshare interest. Complainant alleges that they were unable to use their points to book reservations at the Respondent's resort. Complainant disputes two timeshare transactions from 2002 and 2018, respectively. Complainant attached a copy of the contract for the 2018 transaction.

Respondent filed a response stating that the Complainant attended a timeshare sales presentation in 2003 where the Complainant purchased their first timeshare interest for a property out of state. In 2010, the Complainant was again invited to a timeshare presentation, which they attended. The Complainant purchased an additional timeshare interest located out of state. Respondent states that in 2018, Complainant visited their resort out of state and was invited to attend another timeshare sales presentation. Complainant attended the presentation where they were offered the opportunity to purchase a trust interest. Respondent denies no making any misrepresentations.

**Recommendation: Dismiss. The 2003 and 2010 contracts are outside of the statute of limitations for consideration. The July 2018 contract was entered out of state, therefore the Commission has no jurisdiction over the matter.**

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

**53. 2020022711**

**Opened: 4/27/2020**

**First Licensed: 12/6/2006**

**Expires: 12/5/2020**

**Type of License: Affiliate Broker**

**History: 2010 Civil Penalty for Failure to Maintain E&O Insurance**

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that they entered a purchase and sale agreement for the purchase of a home and some items that were inside the home. Upon possession of the property, some of the items Complainant purchased were missing. Respondent refused to assist Complainant in retrieving those items. Complainant also states that they purchased another property that was owned by Respondent. Respondent stated that the property was originally a hay barn; however, this was not correct. Complainant states that more issues were discovered after the home inspection. Complainant alleges that the Respondent and home inspector work together often, and they believe that the home inspector was biased and created a report in the Respondent's favor. Complainant further alleges that Respondent lied about obtaining a termite inspection. Complainant confirmed this by calling the termite inspector. Complainant states that neighbors informed them that there were a few fires in the home. This was not disclosed by Respondent. Respondent also did not disclose that a subdivision was being built around the home even though Respondent knew that Complainant primarily wanted the property because of the land surrounding it. Finally, Complainant states that Respondent did not disclose that the fireplace was defective.

Respondent filed a response via their attorney stating that for the first property that Complainant purchased, Complainant had taken an assignment from a previous purchaser. During this transaction, the Respondent represented the seller. The contract contained language which stated, "All items located with the property as of 8/10/18 at \$0 cost to the buyer." The previous owner provided the Complainant with a list of items to be included in the sale. When Complainant took possession, all items on the list were not included. Complainant reached out to Respondent about the items. The Respondent stated that Complainant was only entitled to the items which were present on the property at the time the home went under contract but provided the Complainant with the contact information of the Seller so that they could discuss the items. With respect to the second property that Complainant purchased, Respondent states that they owned the property and were renting it out. The lease was about to expire when the Complainant contacted Respondent regarding the purchasing the property. Respondent and Complainant began negotiations for Complainant to purchase the property. Respondent provided Complainant with a personal interest disclosure and consent on August 27, 2018, disclosing that Respondent was the owner of the property and also a real estate agent. Respondent states that they were not selling the property through their real estate firm, but rather as an individual, therefore the firm name does not appear on the disclosure form. Respondent also provided Complainant with a Tennessee Residential Property Condition Disclosure form. Respondent states that Complainant hired the home inspector and the home inspector's report indicated that the fireplaces should be inspected by a professional chimney sweep. With respect to the termite inspection, Respondent admits that they agreed to have the property treated for termites and hired the termite inspector to treat the property. Finally,

Respondent denies having any knowledge that a subdivision was being built next door to the property until after the closing. Complainant allegedly informed Respondent of the subdivision construction. Respondent attached an affidavit from a previous renter of the second property Complainant purchased in which they state that they never used the fireplace or experienced any problems with the property during their occupancy (August 2018 – early October 2018). Respondent attached an affidavit from another former tenant who occupied the property from November 2016 – May 2017 and stated that they regularly used the fireplaces inside the home and never had any issues (provided supporting photographs). Respondent also attached text messages from the Complainant. Finally, Respondent attached a copy of the purchase and sale agreements for both properties.

**Recommendation: Dismiss. Majority of the complaints are with the home inspection, so perhaps this matter could be referred to the home inspectors licensing program. With respect to the real estate transactions, the Respondent disclosed their personal interest and executed the appropriate documents.**

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

**54. 2020027031**

**Opened: 4/27/2020**

**First Licensed: 3/10/2011**

**Expires: 3/9/2021**

**Type of License: Real Estate Firm**

**History: None**

Complainant is a real estate licensee. Respondent is a licensed real estate firm.

Complainant alleges that Respondent is engaging in unlicensed activity. The unlicensed individual in their firm allegedly receives commissions.

Respondent's Principal Broker filed a response stating that the Complainant is a leasing coordinator at their firm. They have a collection coordinator who collects outstanding balances for their residents and posts payments to residents' accounts. Respondent admits that the collection coordinator is not licensed but has been allowed to show vacant units that solely belong to the owner of the property who is also unlicensed. Respondent states that the collection coordinator does not receive commissions. Respondent states that they have instructed the collection coordinator not to show any properties at all.

**Recommendation: Letter of Instruction regarding T.C.A. § § 62-13-102(4)(A); 62-13-103; and 62-13-104. The Complainant provided no supporting evidence to indicate that the collection coordinator received Commissions or performed any acts which constitute brokering as defined by statute. However, based on the Respondent's response and the allegations of Complainant, further clarification on the rules and statutes is necessary.**

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

**55. 2020024601**

**Opened: 4/27/2020**

**First Licensed: 8/19/2009**

**Expires: 8/18/2020**

**Type of License: Time Share Registration**

**History: None**

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant states that they currently have four (4) timeshare accounts with Respondent's resort. Complainant states that they thought they were consolidating their timeshare contracts into one contract. Complainant feels that they feel they have been misled and pressured into this situation. Complainant states that they experienced unfair business practices and deception. Complainant attached a copy of the contracts.

Respondent filed a response stating that all sales presentations are voluntary and may be declined at any time. Respondent further states that their sales consultants do not force or coerce anyone into purchasing their products. Respondent states that the sales contract outline the terms and conditions, and Complainant was informed of their rescission rights. Respondent states that Complainant has retained a private attorney.

**Recommendation: Dismiss. The contracts contain the appropriate rescission language along with the Complainant's signature.**

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

**56. 2020013701**

**Opened: 2/21/2020**

**Type of License: Unlicensed**

**History: None**

Complainant is a Tennessee resident. Respondent is an unlicensed business entity.

Complainant alleges that Respondent represented that they owned an investment firm. Respondent allegedly took \$15,000 from Respondent as in investment into their real estate firm but has not returned any money to Complainant. Complainant is requesting that their money is returned.

Respondent filed a response stating that they are not a real estate brokerage firm and have never represented as a real estate firm. They are engaged with various consumer markets and private companies, manufacturers, financiers and workforce labor organizations. They are active in renewed global energy, affordable housing development, filtrated water supply, technology, job creation initiative, LED lighting and solar energy, among other things. Respondent states that Complainant reached out to them in which they discussed participation in their program involving job creation, affordable housing, and technology. Complainant stated that they wanted to contribute money to the process. Complainant contributed \$15,000 which was placed in a trust to acquire a plot of land that would be used to develop an affordable housing project in which

Complainant would share in the profits at the end of the project. Respondent states that the Complainant made threats and demanded the return of their money as Complainant did not understand the process. Respondent states that they refunded Complainant their money and did not use it in the acquisition of the purchase of the plot of land.

**Recommendation: Close and flag.**

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

**57. 2020010061**

**Opened: 3/9/2020**

**Type of License: Unlicensed**

**History: None**

Complainant is an out-of-state resident. Respondent is an unlicensed property management company.

Complainant alleges that Respondent is engaging in unlicensed activity by acting as a property management company without a license.

Respondent filed a response via their attorney stating they took active steps to have their employees licensed due to the previous decision by the Commission. Their employees have applied for licensure and are taking the real estate exam along with the required education. A previous complaint (2019082681) was filed in February in which the Respondent (a limited liability company) was assessed a civil penalty for its employees' failure to obtain a license. Due to COVID-19, the Respondent's employees have not been able to complete their education requirement, but they have applied for licensure and proceeded with other requirements.

**Recommendation: Dismiss. The Respondent now has a licensed principal broker.**

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

**58. 2020015461**

**Opened: 3/17/2020**

**First Licensed: 4/20/1999**

**Expires: 12/31/2020**

**Type of License: Time Share Registration**

**History: None**

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant states that they attended a timeshare presentation and were victims of high-pressure sales tactics. Complainant states that they were not told about the obligations they would be subjected to when they entered the contract.

Respondent filed a response through their attorney stating that Complainant purchased a timeshare interest in August 2016. Respondent states that Complainant freely and voluntarily purchased a

timeshare interest upon fair disclosure of the terms and conditions associated with their purchase. Respondent states that the contract included their 10-day rescission policy to allow Complainant to further review their documents and purchase decision.

**Recommendation: Dismiss. The timeshare contract contains the appropriate rescission language along with the Complainant's signature. Counsel also notes that the complaint was filed outside of the two-year statute of limitations.**

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

**59. 2020002681**

**Opened: 2/10/2020**

**First Licensed: 4/20/1999**

**Expires: 12/31/2020**

**Type of License: Time Share Registration**

**History: None**

Complainant is an out-of-state resident. Respondent is a registered timeshare resort.

Complainant alleges that Respondent used underhanded and unethical means to secure a timeshare sale on January 24, 2016. Complainant states that they have not been able to utilize the timeshare resort and were told several lies. Complainant requests contract cancellation and a refund of their monies.

Respondent filed a response stating that they provided the Complainant with copies of the contract terms. Respondent further states that Complainant signed an acknowledgement of representations document, which is designed to eliminate the possibility of misunderstandings and confirmed the Complainant's understanding of the terms. Respondent states that the Complainant received full and fair disclosure at the time of purchase and therefore they are not cancelling the contract.

**Recommendation: Dismiss. The contract contains the Complainant's signature as well as the required rescission language. In addition, the contract was executed in 2016, which is outside of the two-year statute of limitations.**

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

**60. 2020018601**

**Opened: 5/4/2020**

**First Licensed: 9/11/2012**

**Expires: 7/27/2020**

**Type of License: Principal Broker**

**History: None**

Complainant is an Affiliate Broker and the Respondents are Respondent's former Real Estate Firm and the Principal Broker of the Real Estate Firm. The Complainant, a principal broker, left one firm and joined another firm. The previous firm failed to remove the Complainant's information

from the Respondent's website. Complainant also alleges the Respondent failed to pay the full amount of a commission for a closing. The Complainant alleges there was a deficit paid in the amount of \$1,995. Respondent told the Complainant it was a referral, however, there was no referral fee or a referral fee agreement. The Complainant was the listing agent on the property owned by the Respondent's Principal Broker and the Respondent Principal Broker removed the lockbox and moved into the property without informing the Complainant and later told the Complainant because his home was being renovated, he had to move into the property because he needed somewhere to stay during the renovation period.

The Respondent provided a response stating this same complaint was filed by the Complainant with Greater Nashville Realtors Association (GNAR) and the complaint was decided in the Respondent's favor. Respondent alleges the Complainant engaged in various unethical and illegal behaviors, including requesting the Respondent "bury" ALTA form and the Respondent refused and this led to the Complainant filing a complaint. The Complainant has not produced written evidence to the Respondent of these claims for fees in writing despite the Respondent requesting documentation.

**Recommendation: Close.**

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

**61. 2020027431**

**Opened: 5/4/2020**

**First Licensed: 6/12/2018**

**Expires: 6/11/2020**

**Type of License: Affiliate Broker**

**History: None**

The Complainant alleges the Respondent is advertising to provide real estate services without disclosing the Respondent is a real estate agent on a website. The Complainant has contacted the Respondent's broker about the website; however, the broker did not take any action. This is an unlicensed firm issue.

The Respondent provided a response and stated on the website it clearly indicates the Respondent is a real estate agent, however, on another website for investment property owned by the Respondent, there is no disclosure of the Respondent being a real estate agent.

Upon checking the website, the server IP address could not be found for the website provided, however, there is another website for an investment firm that invests by purchasing homes from individuals in the East Tennessee area that is owned by the Respondent. There is no disclosure by the Respondent concerning being a real estate broker or any other disclosures. The investment firm does not have a firm license.

**Recommendation: Close.**

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

**62. 2020029581**

**Opened: 5/4/2020**

**First Licensed: 4/2/2002**

**Expires: 7/8/2021**

**Type of License: Principal Broker**

**History: None**

Complainant is an affiliate broker and Respondent is the principal broker. The Complainant alleges the Respondent Broker failed to give 70% of the commission, as previously agreed upon on two sale transactions and instead, only provided 50% Commission.

The Respondent provided a response and stated the Complainant is aware that all in-house sales leads are only given a 50-50% split for commission. The Respondent stated the Complainant signed a release and was aware of this arrangement for all agents.

**Recommendation: Close.**

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

**63. 2020029591**

**Opened: 5/4/2020**

**First Licensed: 3/12/1991**

**Expires: 7/3/2021**

**Type of License: Affiliate Broker**

**History: None**

Complainant was in the process of filing for bankruptcy and his home was put on the market by the Bankruptcy Trustee. As the Complainant was moving out of the home, black mold was discovered and also the pool heater was not functioning. The Complainant was not permitted to contact the listing agent and was told by the Bankruptcy Trustee the listing agent would be informed. The Complainant never received any disclosure forms for signature from the affiliate broker. The Complainant alleges the Bankruptcy Trustee screamed at the Complainant concerning the nondisclosure of mold. The Complainant alleges the Bankruptcy Trustee would not provide any funds to inspect and remediate the mold issue. The Complainant also attempted to contact the pool company to inspect the pool heater and they did not respond or send anyone to inspect it. Two weeks later, the Complainant contacted the pool company again and received no response. The Complainant's bankruptcy was later dismissed during the first week in April and the Respondent contacted the Complainant concerning another offer on the home. At this point, the Complainant reiterated the issue with the black mold and requested the Complainant send the necessary disclosure forms. The Complainant claims the Respondent failed to respond in a timely manner and had to attend an emergency court hearing concerning the Complainant in a divorce proceeding. The Complainant alleges the Respondent provided testimony that resulted in the Court placing a gag order on the Complainant that would not allow the Complainant to disclose

anything further concerning the home and holding the Complainant in contempt of court. The Complainant alleges the Judge yelled at the Complainant and called the Complainant a monster and buzz saw.

The Respondent provided a detailed response with attachments indicating that the Complainant did not contact the Respondent concerning the mold and pool issues until April 2020. The Respondent stated the property in question was a court-ordered sale originating from a bankruptcy proceeding that was later dismissed and also the subject of a contentious divorce proceeding. The Respondent stated the Complainant occupies the home and the Respondent was in the process of listing and selling the home. In January 2020, the Respondent received two Residential Property Disclosures from the Complainant's Bankruptcy Trustee. One was completed and signed by the Complainant and there was another blank one that was signed by the Complainant's husband. The Respondent went to the property at the end of February 2020 to gather more information about the home and measure the rooms. The Complainant was at the home with her children, another individual and her housekeeper. She discussed the details of the home with the Respondent at length, but did not mention the pool heater or the black mold. In April 2020, the Respondent received two e-mails from the Complainant updating the Respondent on the property condition disclosure because there were several items that had become broken over the past several weeks and a second e-mail about the discovery of black mold and other structural issues with the home. The Respondent sent the Complainant the property condition disclosure forms update and requested it be returned once completed. The same evening, the Complainant sent an e-mail to the Respondent stating the Complainant had to consult with her attorney before submitting the forms. The Respondent was later asked to provide testimony in the divorce proceeding by a Zoom hearing concerning the value of the home that was the subject of the divorce proceeding. The Respondent was never sent the disclosures and the first time the Respondent saw the pictures of the black mold was in the complaint submitted to the Commission. The Respondent promptly responded to all of the Complainant's communications, including e-mails

**Recommendation: Close.**

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

**64. 2020030781**

**Opened: 5/4/2020**

**First Licensed: 11/29/2001**

**Expires: 3/20/2022**

**Type of License: Affiliate Broker**

**History: None**

Complainant is the purchaser of a home and the Respondent is an affiliate broker. Complainant purchased a home through foreclosure and alleges the listing agent did not secure the home following the departure of the owners of the home and the former owners continue to access the home in the middle of the night and the Respondent also failed to provide the Complainant and

her real estate agent with all the necessary keys to the property. The Complainant alleges the Respondent has failed to provide the keys to the crawl space. The listing agent is not cooperating or assisting the Complainant's real estate agent. The Complainant alleges the Respondent has cash buyers for the property in order to earn a full commission and is purposefully trying to allow the time period to run out on the Complainant's contract. The Complainant also alleges the Respondent is conveying false information to the Complainant's lender. As a result, the Complainant alleges this is impeding the lender from processing the loan on the property.

The Respondent stated the home was properly checked and secured and a lockbox was placed for access. The auction site would only allow licensed agents to have the code for the lockbox. A message was sent to the asset manager to get the keys replaced. The keys were missing from the lockbox and the Respondent properly informed the firm handling the foreclosure of the home, however, the appraisal was done and the appraiser accessed both the crawl space and the home and provided an appraisal report. The auction site continued to allow backup bids to be placed and held. Also, the Respondent stated the Complainant changed the loan after the contract was signed without the permission of the bank. The Respondent did call the Complainant's lender to confirm the loan because there were many repairs that were requested and also confirmed the appraisal. The lender confirmed that the Complainant did not qualify for a conventional loan and it was an FHA loan. The property was being sold "AS IS." The property had no power, no water source, no proof of a septic system, and there were wires that were cut throughout the home as stated in the appraisal report. The lender has refused to allow work to be done to the home before closing.

**Recommendation: Close.**

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

**65. 2020024341**

**Opened: 5/4/2020**

**First Licensed: 8/23/2017**

**Expires: N/A**

**Type of License: Time Share Registration – Time Share Exempt**

**History: None**

Complainant is a consumer purchaser of a timeshare and Respondent is a timeshare company. The Complainant purchased a timeshare and later exchanged it for a timeshare located in Tennessee. Complainant later wanted to cancel the contract approximately 15 months later claiming they were elderly, did not want to have added expenses and could not afford the timeshare.

Respondent provided an extensive response detailing the timeline concerning the purchase and subsequent telephone and e-mail communications by the Complainant. There was no wrongdoing by the Respondent.

**Recommendation: Close.**

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

**66. 2020025041**

**Opened: 5/4/2020**

**First Licensed: 8/19/2009**

**Expires: 8/18/2020**

**Type of License: Time Share Registration**

**History: None**

The Complainant is a purchaser of a timeshare and the Respondent is a timeshare company in Tennessee. The Complainant alleges the Respondent pressured the Complainant to purchase a time share and each time they needed to make a reservation it was more and more difficult to obtain a timeshare reservation. The Complainant alleges the Respondent has repeatedly been dishonest with them and told them they needed to purchase a property in the timeshare they wanted to visit and would find availability of rooms. Also, the Complainant alleges they are repeatedly being pressured to upgrade the timeshare. They also have been told they would be given preferential treatment, however, they have not been given special treatment and are struggling to make a reservation at any property. They would like to sell the timeshare, however, the Respondent is making it very difficult and not assisting them. The Complainant claims their son is special needs and their in-laws have moved into their home and cannot afford or worry about the timeshare payments and no longer want the timeshare.

The Respondent provided an extensive response and stated the Complainant accepted two invitations to attend timeshare presentations on two occasions, the first one was in July 2008. The Complainant purchased a timeshare interest in Kissimmee, Florida and enrolled in the club exchange and the developer's points exchange program. The Respondent stated that the Complainant can purchase the initial interest on the same day, but the inventory changes on a daily basis and the Respondent cannot guarantee a prospective purchaser a particular interest in another inventory at a later date. The offers presented during the presentation are offered as a first-day incentive and the same pricing is not always available later. The Complainant could decline offers presented and leave the sales center if the initial interest was not good for the Complainant and did not have to complete the purchase. Also, the Complainant can cancel the purchase within the rescission period. The Complainant did not exercise any of these options and elected to retain the initial interest. The Complainant again visited the timeshare resort in 2012 and attend a timeshare presentation and accepted the invitation. At this presentation, the Complainant elected to trade-in the original initial interest for a timeshare interest at the Resort with 222,000 club points per year, which was considered an upgrade. The Respondent stated later the Complainant became delinquent on the financial obligations of the upgrade because of a change in life circumstances. The Respondent offered various payment options to make the Complainant's account current and retain the upgrade. The Complainant agreed to the purchase proposal attendant to the restructuring which, which includes clear disclosures and after the down payment is applied, the amount financed would be \$33,530.93 and the refinancing had the rate of 15.99% over a ten (10) year term requiring monthly payments of \$377.28. The Complainant executed the document and refinanced the upgrade and the Complainant's account was brought current and lowered the monthly payments from the original amount of \$538.52. The Complainant alleges the Respondent used "high pressure and misleading" sales tactics in connection with the purchase, however, the Respondent stated a thorough investigation was conducted and all records were reviewed

concerning the transaction and there was no indication of any such tactics. The Respondent stated the Complainant attended lengthy time share presentations which are voluntary and offers to purchase can be declined. The Respondent does not force or coerce anyone to purchase resort offerings or vacation ownership plans. The Respondent states the Complainant was not forced to purchase and even listed that he wanted to increase his ownership portfolio and really liked the area. The Respondent stated the Complainant listed he believed his investment would increase in value and it could be rented. The Respondent stated they do not promote their products as financial investments with increasing values, but rather an investment for vacationing with family and friends. The Respondent had been told that he could not book reservations more than ten (10) months in advance and the only way to guarantee reservations would be to purchase a specific week and unit at a particular resort. The booking windows are attendant to the timeshare ownership and this was fully disclosed at each of the presentations attended by the Complainant. Also, the Complainant was told the reservations could be guaranteed for the owned unit during the owned week and the reservations should be made at least thirteen months in advance to up to three years in advance. All other reservations are subject to availability and only guaranteed upon booking confirmation. The Respondent stated the Complainant did secure three reservations during peak periods of Thanksgiving in Gatlinburg in 2010. Also, the Complainant was informed at the onset that club points could not be used to pay maintenance fees because the Complainant elected to be a traditional member in the club program. The preferred membership levels allow for payment of maintenance fees after a certain amount of points are obtained. The Respondent also noted the complaint was unsigned and had a notation of "sign here." The Respondent wants to make sure that this was a legitimate consumer complaint and not one manufactured by a third-party.

**Recommendation: Close.**

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

**67. 2020030441**

**Opened: 5/4/2020**

**First Licensed: 4/4/2018**

**Expires: N/A**

**Type of License: Time Share Registration – Time Share Exempt**

**History: 2016 Consent Order for Failure to Cancel Contract**

Complainant purchased a timeshare and decided to cancel within the ten (10) day recession period and requested a refund of her down payment after disputing the down payment with her credit card company. The Respondent cancelled the contract and did not dispute the chargeback by the credit card company. The Complainant has received the return of all down payment amounts and has been made whole.

**Recommendation: Close.**

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

**68. 2020022251**

**Opened: 5/4/2020**

**First Licensed: 6/12/2015**

**Expires: 6/11/2021**

**Type of License: Vacation Lodging Service**

**History: None**

Complainant is a purchaser of a timeshare interest and the Respondent is a timeshare company. The Complainant alleges the Respondent allowed them to rebook timeshare vacation for 2021 after the COVID-19 outbreak, however, the cost for the next year was much higher. The Complainant requested Respondent charge the same price for 2021 and the Respondent declined. The Complainant stated a complaint would be filed with the Attorney General's office. Thereafter, the Respondent honored the same price for the rental for the week in 2021 at the 2020 price. The Complainant alleges the Respondent may be engaging in price gouging and is concerned the Respondent is taking advantage of other consumers.

The Respondent provided a response and stated that due to COVID-19 all timeshare rentals were being provided a full credit to all guests and rebooking is available for all guests for up to an 18 month period following the rental period. The prices for 2021 rental periods may be different than the 2020. The Respondent is unaware when if the Complainants were seeking to book a different week than the one previously booked. The Respondent has accommodated the Complainants in this situation due to the COVID pandemic and is working with all consumers in light of the situation. The Respondent is not charging any cancellation or change fees to any consumers. All consumers will receive a credit and can reschedule up to 18 months later.

**Recommendation: Close.**

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

**69. 2020024481**

**Opened: 5/12/2020**

**First Licensed: 4/13/1994**

**Expires: 10/24/2020**

**Type of License: Principal Broker**

**History: None**

Complainant alleges HOA dues are improperly collected by the resort development. Complainant was unable to locate the license for the developer and believes that the dues are collected and not being used properly. The Complainant also alleges misappropriation of the funds being collected. The Complainant states the residents have been unable to obtain information about the HOA and it has not been operation. The Complainant stated the Respondent has real estate transaction violations.

Respondent provided an extensive response and states the property is still being developed by the developer and the HOA is still under the control of the developer. The HOA does not get turned

over to the residents until the development is completed. The HOA has continued to maintain an active license with the Secretary of State in anticipation of turning over the HOA to the residents of the resort upon completion of the development. There have been no HOA dues ever collected. The Respondent states that the amounts the Complainant alleges are being collected are the maintenance and security fees for the development. These are annual fees paid by the resident owners for the maintenance of the development. This amount is listed in the MLS under the HOA fees because no other line item is available to list these fees. The Respondent did this to provide notice of the prospective fees to be imposed on those seeking to purchase property at the resort and is Respondent's attempt to provide full disclosure to prospective buyers. The Respondent owner of the development is a licensed real estate broker and has a valid license number. There has been nothing illegal about how the HOA is being operated by the developer and there is no wrongdoing by the developer. There is an ongoing lawsuit pending and the Complainant has been provided a complete accounting of the lawsuit concerning the expenditure of the maintenance and security fees collected from residents.

**Recommendation:** Close.

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

**70. 2020025231**

**Opened:** 5/12/2020

**First Licensed:** 10/18/2013

**Expires:** 10/17/2021

**Type of License:** Real Estate Broker

**History:** 2013 Consent Order for failing to disburse earnest money in a timely manner;

2016 Consent Order for self-dealing in failing to disclose an interest to potential buyers in a timely manner

This complaint was opened administratively. Respondent is a licensed Principal Broker. An audit resulted in three separate trust fund violations. There were three separate instances where the deposit of trust account monies were delayed. In one case, the trust account deposit was delayed for three days. Pursuant to T.C.A. 62-13-312(b)(5), trust monies must be promptly deposited. The EM check should have been deposited promptly upon the binding agreement date. In another situation, trust money deposit was delayed by thirteen days. In the final instance, the trust money deposit was delayed by five (5) days. The Respondent did not provide a response.

**Recommendation:** Civil penalty of \$500 for each violation for a total of \$1,500 and Continuing Education hours required for CE for violation of T.C.A. 62-13-312(b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09(11) regarding management of trust accounts.

**Decision:** The Commission elected to issue a civil penalty for \$1,500.00 for the violation of T.C.A. 62-13-312 (b)(5) and Tenn. Comp. R. and Regs. 1260-02-.09 (11) with an additional civil penalty of \$1,000.00 for failure to respond to the complaint for a total of \$2,500.00 in

**civil penalties and the Respondent's license shall be downgraded to Affiliate Broker for a term not to exceed three (3) years.**

**71. 2020025281**

**Opened: 5/12/2020**

**First Licensed: 6/13/2014**

**Expires: 12/11/2021**

**Type of License: Principal Broker**

**History: None**

This complaint was administratively opened against the firm's principal broker for audit violations since the firm's PMI was being held in the firm's operating account. Tenn. Rules and Reg. 1260-02-.09 states PMI payments should be paid directly to the agent and not through the Principal Broker.

The Respondent provided a response and stated it was unaware it could not deposit the amounts paid to a property manager into the brokerage account. The Respondent did not realize this would be defined as commingling of funds. The Respondent has ceased making such deposits and will not make any deposits to the operating accounts.

**Recommendation: Letter of Instruction concerning PMI.**

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

**Commented [CM1]:** Also please check this one. I am unsure if this was changed to a civil penalty of \$250 per violation or if this decision was accepted

**72. 2020028171**

**Opened: 5/12/2020**

**First Licensed: 11/14/2016**

**Expires: 11/13/2020**

**Type of License: Affiliate Broker**

**History: None**

Complainant filed this complaint on behalf his elderly parents and stated the bankruptcy trustee is attempting to sell their home. The Trustee has not yet ordered the sale of the home. The Complainant has requested due to COVID-19, there should be no visitors to his parent's home and has instructed the Respondent real estate broker not to have any individuals come to the home, however, they have sent photographers to photograph the home and other individuals in order to get the home prepared to be sold.

The Respondent Principal Broker provided a response and stated he was hired by the Bankruptcy Trustee to begin the process of selling the home. There were special arrangements made with the Complainant's parents to leave the premises during the time period the photographer would photograph the home for the property listing. Also, in Tennessee, real estate services were deemed to be an essential service during the time period in question. Also, the Respondent provided a letter from the Bankruptcy Trustee stating arrangements were made in advance. If the home is not listed, the Complainant's parents will be in violation of the bankruptcy laws since this is the sale of the home stemming from the bankruptcy. The Bankruptcy Trustee stated the Respondent was

acting within his authority and mandate and the parameters of the law and has not violated the law. Also, the Complainant is not the homeowner or a party to the bankruptcy proceeding.

**Recommendation: Close.**

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

**73. 2020030071**

**Opened: 5/12/2020**

**First Licensed: 11/3/2005**

**Expires: 4/14/2022**

**Type of License: Principal Broker**

**History: None**

The Complainant is a purchaser of property and the Respondent is a principal broker. Complainant sent a cancellation notice of the Agreement to Purchase Real Estate to the Respondent within the 72 hour period outlined in the Agreement and the Respondent failed to return the cancellation notice to the Complainant. The Respondent has refused to cancel the offer.

Respondent provided a response and stated the Complainant entered into an Exclusive Representation Agreement with the Respondent and the 72 Hour cancellation provision only allows the Buyer to cancel the agreement within 72 hours to resolve any conflict or misunderstanding to the Broker and the Buyer's satisfaction. The Buyer signed a contract directly with the seller after entering into the Exclusive Representation Agreement and wanted to cancel after entering into a contract to purchase the property directly from the seller.

**Recommendation: Close.**

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

**74. 2020037481**

**Opened: 5/18/2020**

**Unlicensed:**

**History: None**

The Complainant entered into a property management agreement with the Respondent for renting of rooms for a non-profit group. The Respondent failed to submit the payments for the room rentals to the Complainant. The Complainant has attempted to contact the Respondent by text, e-mail and telephone and the Respondent will not respond to the Complainant and make the necessary rental payments and property management fees. The Complainant also entered into a Private Money Lender Program with the Respondent in the total amount of \$4,000 with payments, including interest, to be made to the Complainant in the amount of \$222/month. The Respondent has not made a single payment to the Complainant of any monies and late fees are also due to the Complainant. The Respondent failed to respond to the Complainant.

**Recommendation: \$1,000 civil penalty for unlicensed activity.**

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

**RE-PRESENTS**

**75. 2019074291**

**Opened: 9/4/2019**

**First Licensed: 3/30/2006**

**Expires: 3/29/2020**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a real estate licensee. Respondent is a real estate licensee.

Complainant alleges that they saw a property they were interested in and reached out to the Respondent to inquire. The Complainant asked how far the property extended and whether it was in a flood zone. The Respondent responded to the Complainant's text rudely, using expletives in the texts. Complainant states that Respondent was unprofessional and degrading.

Respondent filed a response stating that the Complainant texted asking about information that was accessible to Complainant. Respondent states that Complainant did not have an appointment and had they called and made an appointment Respondent would have emailed all the information in the property file. Respondent apologized for the language and states that their spouse has been battling cancer and they value time at home with their spouse.

The Respondent's Principal Broker filed a response stating that they had a meeting with the Respondent after receiving notice of the complaint. They discussed the matter and explained to Respondent that the language used in the text messages was inappropriate from both parties and that Respondent has a duty to cooperate with other agents. Respondent's Principal Broker states that Respondent was frustrated with the out-of-state agents showing up and looking at the property without making an appointment and calling every weekend with questions.

**Recommendation:** Letter of warning regarding reasonable skill and care.

**Decision:** The Commission voted to issue a \$250 civil penalty and to require Respondent to attend a four-hour Contracts class within 180 days, over and above that which is required for licensure.

**New Information:** The Respondent has paid the civil penalty, however, due to the COVID-19 pandemic, the only continuing education course available is through Zoon. The Respondent does not have video capabilities on his computer and would like to know how to complete the CE before September 2020 if in-person CE is not allowed.

**New Recommendation:** Allow the Respondent additional time to complete the CE by extending deadline for completion of CE.

**New Decision:** The Commission elected to continue with the original decision.

**76. 2020014451**

**Opened: 3/17/2020**

**First Licensed: 12/29/2017**

**Expires: 12/28/2021**

**Type of License: Affiliate Broker**

**History: None**

Complainant is an anonymous individual. Respondent is a real estate licensee.

Complainant alleges that Respondent is in violation of the advertising rules by failing to include the firm telephone number on their yard sign, newspaper ads, as well as their billboards. Complainant states that Respondent included their personal cellphone number instead. Complainant further alleges that Respondent advertises as if they have their own firm, but they do not have a valid firm license. Respondent also states that the Respondent's email address is larger than the firm's email address. Complainant further alleges that Respondent lists properties that are they are not the listing agent for and were not sold by Respondent. Complainant attached copies of the alleged non-compliant advertisements.

Respondent filed a response stating that they intend to comply with all of the statutes and rules. Respondent states that their name and telephone number appears on their yard signs and both are smaller than their broker's name, and the firm name and telephone number are both listed on the advertisements. Respondent states that all of their advertisements include the firm name and logo, along with the firm telephone number. With respect to the allegation that the Respondent posts listings that they do not have a listing agreement for, the Respondent states that they send out informational postcards that share some active and sold properties. The postcards indicate that the Respondent is only providing a market update and does not purport to indicate that the listings belong to the Respondent. The postcards are simply sent out to let the county residents know what is going on in the real estate market. Respondent attached photos of the advertisements.

**Recommendation:** \$500 civil penalty. Counsel reviewed the attached documents. The postcard, yard sign, and Facebook page all appear to be in compliance; however, the billboard is not. The Respondent's name appears to be in larger letters than the firm's name. The billboard also does not include the firm's phone number as listed on file with the commission.

**Decision:** The Commission accepted counsel's recommendation, but also voted to assess and additional \$500.00 civil penalty for the billboard advertising violation.

**New Information:** The Respondent sent a clearer picture of the original billboard because the original photo was very blurry. The phone number was not clearly visible and the new photo shows the phone number. The Respondent also stated the firm name had an ampersand and therefore, it is larger than the Respondent's name. The firm name would appear to be larger because of the ampersand.

**New Recommendation:** Dismiss

**New Decision:** The Commission elected to

**77. 2019058781**

**Opened: 7/2/2019**

**First Licensed: 11/21/2000**

**Expires: 6/2/2021**

**Type of License: Principal Broker**

**History: 2006 Consent Order**

Complainant was a buyer and Respondent was their agent. Note that at the time of the complaint Respondent was an affiliate but since become a principal broker. Complainant alleges Respondent failed to disclose that their firm was representing both the buyer and seller in the transaction and failed to represent Complainant's best interests.

Complainant states they were referred to Respondent in September, 2017. Complainant lived out of state at the time and was looking for a property they could lease for one year. Respondent began sending them listings to review. On May 7, 2018, Complainant found a listing on Zillow and asked Respondent to visit the property as they were still living out of state. Respondent viewed the property and met with the property owner (the respondent below), who is also a real estate licensee and was acting as a principal broker at the time. Complainant filled out a rental application but the following morning Respondent notified them that the property owner decided to sell instead of rent. Complainant states that Respondent encouraged them to place an offer below market value because the owner was highly motivated and needed to sell quickly. They state they were hesitant because they only planned on staying for a year, but Respondent told them the home was worth more than the listing price and suggested it would be easy to sell later on. The parties entered into a Purchase and Sale Agreement on May 12.

Complainant alleges that at some point after meeting with the property seller on May 12 and closing on the transaction on June 11, Respondent transferred their license to the property seller's firm. Complainant states that Respondent informed them about the transfer only a few days before closing, but they could not send over any paperwork until the transfer was processed (presumably to avoid unlicensed activity). Thus, Complainant states they didn't receive any written personal disclosures until the day before closing.

In their answer to the complaint Respondent states that when they met with the property seller and learned they were also a licensee they got to talking about the real estate industry. Sometime thereafter the seller offered Respondent a position with their firm. Respondent submitted a transfer form to Commission staff on May 23 and it was approved on the 26<sup>th</sup>, two weeks after the PSA was bound. Also, Respondent states that because the PSA's closing date was set by a counter-offer and Respondent changed firms, Respondent rewrote the PSA on the new firm's letterhead (keeping the original terms). The new PSA was signed on June 5.

Respondent states that Complainant knew from the beginning that Respondent was unhappy at their firm and that they were looking to affiliate somewhere else. Respondent states they were in constant communication with Complainant and they notified them immediately when they agreed to transfer their license to the property seller's firm. Respondent states this information was no hidden from the complainants and they had multiple conversations about the transfer with Complainant.

Respondent's answer to the complaint included the purchase and sale documents but there is no evidence to demonstrate that they disclosed their transfer to the new firm to Complainant prior to the day before closing (although the seller did provide their written personal interest disclosure)..

Counsel recommends the Commission authorize disciplinary action for the violation of T.C.A. 62-13-312(b)(20), which makes it unlawful for a licensee to engage in any conduct that constitutes "improper, fraudulent, or dishonest dealing" as well as a violation of Respondent's duty to exercise reasonable skill and care towards all parties in a transaction under T.C.A. § 62-13-403(1).

**Recommendation: \$500 civil penalty and four credit hours of continuing education related to Contracts, above and beyond what is required for the maintenance of Respondent's license, to be completed within one hundred eighty days of execution of the Consent Order.**

**Decision: The Commission voted to accept Counsel's recommendation.**

**New Information:** The Buyers contacted the Respondent by e-mail about an upcoming move from California to Nashville for a new short-term job position. The Buyers were seeking a rental property and were unable to be present to view the properties that were identified by the Respondent and requested the Respondent to review the properties for them. At one point, the Complainant Buyers requested the Respondent take their father to view the various properties. Later, the Buyers decided they wanted to purchase the property after finding out that the property they wanted to rent was no longer available for rental, but being sold by the Seller, who had plans to move out-of-state. The purchase was a cash purchase and purchased for under market value. The Sellers did not conduct an appraisal and relied on comps from the area. The property was not listed because it was a sale by an owner agent. During the course of the transaction, the Respondent switched real estate firms. The Respondent obtained the approval of the prior firm before joining the property Seller's firm and also disclosed this to the Buyer's on May 31, 2018. The Buyers were informed in writing on May 31, 2018. The Buyer's asked the Respondent to advise them when the new documents were drafted and ready to be signed. The Respondent produced the e-mail that was sent to the Buyers. The Respondent's license transfer to the Seller's firm was approved on May 26, 2018. Since the initial PSA was terminated due to the earnest money not submitting the earnest money within the allotted time period, a new PSA was drafted and all agreed it would be best to complete the new paperwork until the Respondent completed the transfer of the license to the Seller's firm. The new PSA was signed on June 5, 2018. After the home inspection was completed, there were some items that needed repair and the Buyer and the Seller agreed to split the cost. Following the closing, the Buyers contacted the Respondent concerning numerous issues they found with the home and were frustrated with the Respondent because they had relied on the Respondent to do walkthroughs with them via video and they did not know the true condition of the home. The Respondent stated the Buyers were even offered the opportunity to stay in the home prior to closing on the property, but declined. When the Buyers were unable to sell the home at the original purchase price because of the market conditions and the condition of the home, the Buyers blamed the Respondent for not properly advising them about the home, condition, market, etc.

Based upon the supplemental information provided by the Respondent and clarification of some of the issues in this matter, there were not any improper, fraudulent, or dishonest dealing and the Respondent exercised reasonable skill and care towards all parties in the transaction.

**New Recommendation:** Close.

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

**78. 2019037691**

**Opened: 4/30/2019**

**First Licensed: 9/27/2017**

**Expires: 9/26/2019**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a real estate licensee. Respondent is a real estate licensee.

Complainant alleges that Respondent listed a property for sale at \$149,000.00. Although the mortgage history indicated a balance greater than the listed amount and prior sales indicated the previous sales price of \$250,000 in 2017, Complainant's client instructed Complainant to offer the full amount. Complainant alleges that Respondent countered at \$210,000 stating that the seller owed more on the mortgage than what was offered. Complainant alleges that Respondent's listing included the following tagline "save yourself the hassle of a full price counter and write a full price offer."

Respondent alleges that Complainant never made a counteroffer, and the quoted language in Complainant's complaint is not a direct quote, but was a sentence used in the listing. Respondent alleges that the quoted language was removed entirely from the all of Respondent's listings.

**Recommendation:** Counsel recommends a letter of warning regarding a Respondent's duty of reasonable skill and care. Counsel also recommends a continuing education course.

**Decision:** The Commission voted to issue a \$1,000 civil penalty and to require continuing education in CORE above and beyond what is required for licensure within 180 days of the Consent Order. The Commission also voted to open an administrative complaint against the principal broker for failure to supervise.

**New Information:** The Respondent states that they had multiple offers on the property at issue that were at or above the list price. When the Complainant made their offer on the property it was rejected because there were other offers that were higher than Complainant's offer. Complainant was upset because they did not know that the Respondent had a multi-offer situation and they should have been informed.

**New Recommendation:** Dismiss.

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

**79. 2019054251**

**Opened: 6/17/2019**

**First Licensed: 4/9/2018**

**Expires: N/A**

**Type of License: Time Share Registration/Exempt**

**History: None**

Complainant is a Tennessee resident. Respondent is a registered timeshare resort.

Complainant alleges that they purchased a timeshare interest for \$45,000 with a down payment of \$5,000. Complainant states that the timeshare interest is now a financial burden. Complainant attached a copy of the purchase agreement.

Respondent states that Complainant did not provide a valid reason for cancelling the contract. Respondent states that the purchase agreement provides that Respondent had five (5) days from the date of purchase to cancel the contract, but Complainant failed to do so, and therefore the contract cannot be cancelled. Respondent attached a copy of the purchase agreement.

Counsel reviewed the attachments from both the Complainant and the Respondent. The purchase agreement indicates that there is a rescission period of five days; however, this is not in compliance with the statutory requirements of T.C.A. § 66-32-112(9) which requires a ten or fifteen-day rescission period depending on whether the owner of the timeshare interest viewed the property or not.

**Recommendation: Letter of Instruction.**

**Decision: The Commission voted to issue a \$1,000 civil penalty for violation of Tenn. Code Ann. §66-32-112(9).**

**New Information: Upon receipt of the timeshare contract, it appears that the contract was entered out-of-state, therefore, the Commission has no jurisdiction over the matter.**

**New Recommendation: Dismiss.**

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

**80. 2019013561**

**Opened: 2/19/2019**

**First Licensed: 3/10/2017**

**Expires: 3/9/2021**

**Type of License: Real Estate Firm**

**History: None**

Complainant, a buyer, placed an offer on a property listed by Respondent, a licensed real estate firm. Complainant alleged that Respondent (or a designated agent affiliated with Respondent)

failed to communicate their offer to the property seller, but within a few hours requested to withdraw their complaint based upon new information they received. Complainant was advised that departmental policy does not allow for withdrawals but that a note would be saved in the file.

Respondent did not provide an answer to the complaint.

In the past the Commission has routinely assessed a civil penalty of \$1,000 for failing to answer a complaint in violation of T.C.A. § 62-13-313(a)(2); however, in this particular situation, because the Complainant attempted to withdraw their complaint just a few hours after it was submitted, Counsel recommends the Commission issue a letter of instruction.

**Recommendation: Letter of Instruction.**

**Decision: The Commission voted to issue a \$1,000 civil penalty for failure to respond.**

**New Information: The Respondent did provide a response dated February 2019 that was not uploaded to the folder at the time the Complaint was presented. Respondent forwarded me proof that they did provide a response.**

**New Recommendation: Dismiss.**

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

**81. 2020017511**

**Opened: 3/30/2020**

**First Licensed: 1/14/2016**

**Expires: 1/13/2022**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a licensed Principal Broker. Respondent is a real estate licensee.

Complainant alleges that Respondent was caught on two separate occasions at two different properties rummaging through the property owner's items in their bathroom. On the first occasion, the Respondent alleges that they were looking for Excedrin. On the second occasion, the Respondent was accused of stealing 8 narcotic pills from the property owner's bathroom.

Respondent filed a response denying the allegations. Respondent states that during the first incident they were searching for Excedrin pills. During the second incident involving the prescription narcotics, the Respondent states that they did not steal the prescription medication and that it could have been their clients. Respondent states that they were "snooping looking for Excedrin Migraine pills as it for some reason is off the shelves." Respondent states that they will not do any showings alone or they will have the entire showing recorded. Respondent states that they believe that their client (the Buyer) was involved in stealing the narcotic pills. Respondent attached a copy of a drug screening they had conducted to prove that they are not on drugs.

**Recommendation: Civil penalty of \$500.00 per occurrence for failure to exercise reasonable skill and care for a total of \$1,000.**

**Decision:** The Commission voted to issue a Consent Order with a six (6) month suspension of the license.

**New Information:** The Respondent maintains that they did not steal the prescription medication and that they believe it may have been their clients. Respondent further states that they did not take anything from either home, but they do admit to looking around the bathroom for Excedrin pills. Respondent states that a six (6) month suspension would be detrimental to their livelihood and their family. Respondent requests that the Commission reconsider their decision and assess a civil penalty rather than suspension or reduce the length of their suspension to three (3) months due to the hardship a six-month suspension will create.

**New Recommendation:** Three-month suspension and a civil penalty of \$500 for failure to exercise reasonable skill and care.

**Decision:** The Commission elected to continue with their original decision.

82. 2020001271

Opened: 1/8/2020

First Licensed: 3/10/1994

Expires: 12/10/2020

Type of License: Real Estate Firm

History: 2016 Consent Order with \$1,000 Civil Penalty for failure to respond

Complainant is an out-of-state resident. Respondent is a licensed timeshare resort.

Complainant entered a contract for a timeshare interest in Tennessee. Complainant alleges that Respondent engaged in aggressive sales tactics and misrepresentations. Complainant is requesting recovery of monies lost in the amount of \$24,133.

Respondent filed a response stating that Respondent made three purchases in connection with the timeshare interest in 2018 and 2019. Respondent states that they provided Complainant with copies of the contract which include the terms and conditions. Respondent attached a copy of the contract.

**Recommendation:** \$1,000 Civil Penalty. The contract rescission language indicates that the Complainant has five days from date of entry into the contract to cancel. The Rules require 10 or 15 days to cancel depending on whether there was an onsite inspection of the property.

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

**New Information:** Upon receipt of additional information from the Respondent, the Complainant entered into three contracts. The contract at issue was entered into out-of-state and was for an out-of-state property.

**New Recommendation:** Dismiss for lack of jurisdiction.

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

**83. 2020010681**

**Opened: 3/17/2020**

**First Licensed: 8/30/2000**

**Expires: 7/29/2021**

**Type of License: Principal Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a licensed Principal Broker.

Complainant states that Respondent engaged in unlicensed activity during their real estate transaction because the Respondent's license was in expired status at the time.

Respondent filed a response stating that they mistakenly believed that they fulfilled all of the continuing education requirements, however, Respondent was missing their CORE requirement of six hours. Respondent states that they called and spoke with a licensing specialist who advised them that they were in the grace period and had sixty (60) days to fulfill the required six (6) hours. Respondent states that they completed the six (6) hours on 8/23/19.

**Recommendation: \$1,000 civil penalty for unlicensed activity. Counsel verified that the Respondent's license expired on 7/29/2019 and was not in renewed status until 8/26/2019.**

**Decision: The Commission voted to accept counsel's recommendation of \$1,000.00 civil penalty for unlicensed activity and to include a Principal Broker CORE Continuing Education class to be completed within one hundred eighty (180) days that does not count toward renewal continuing education.**

**New Information:** Respondent completed all requirements for renewal; however, due to a system error this was not noted.

**New Recommendation:** Dismiss.

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

**ANNA MATLOCK**

**RE-PRESENTS**

**84. 2019009451**

**Opened: 2/4/2019**

**First Licensed: 5/30/1976**

**Expires: 6/16/2021**

**Type of License: Principal Broker**

**History: None**

This complaint arises from a property management relationship. The Complainant appears to own a residence in Tennessee that is managed by the Respondent. The Complainant resides in California. The Complainant alleges the Respondent is not handling maintenance requests in accordance with the management agreement.

The Respondent has not responded to this complaint.

**Recommendation: \$1,000 Civil Penalty for failure to respond.**

**Decision: The Commission accepted Counsel's recommendation.**

**New Information: Counsel has sent Respondent multiple notifications for the Consent Order and requested additional information for Respondent's address. All of Counsel's mail has come back returned and efforts to locate Respondent have been unsuccessful. Therefore, Counsel recommends this matter be closed and flagged.**

**New Recommendation: Close and flag.**

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

**85. 2018080771**

**Opened: 11/15/2018**

**Type of License: Unlicensed**

**History: None**

Complainant is the owner of a timeshare interest. Respondent appears to be operating a vacation club. Complainant states they were going to sell their interest to Respondent but on second thought they decided they wanted to keep their property. Complainant stated that the sale required them to pay \$2,325.00 to Respondent. Complainant also stated the contract they signed (which we were not able to get a copy of) provided a 21-day cancellation period, but fails to provide any instructions on how to cancel. Complainant contacted a representative for Respondent and verbally gave them notice of cancellation three days after signing the contract but Respondent failed to return Complainants' funds. Complainant never received their money back or any interest in Respondent's vacation club, however they did maintain the deed and title to their timeshare interest.

An investigation was conducted to determine the nature of Respondent's business. It appears Respondent is offering unregistered vacation club interests for sale in this state in violation of T.C.A. § 62-32-207, if not just conducting an outright scam. Numerous complaints that are almost identical in nature to this one have been filed against this company. Unfortunately, the investigator was not able to locate or speak with any representatives.

Without any viable contact information for Respondent the odds of reaching a resolution are low; nevertheless, Counsel recommends a civil penalty for unlicensed activity and language directing Respondent to cease and desist.

**Recommendation:** \$1,000 civil penalty and language directing Respondent to cease and desist.

**Decision:** The Commission voted to accept Counsel's recommendation.

**New Information:** Counsel has sent Respondent multiple notifications for the Consent Order and requested additional information for Respondent's address. All of Counsel's mail has come back returned and efforts to locate Respondent have been unsuccessful. Therefore, Counsel recommends this matter be closed and flagged and addressed again should Respondent apply for licensure.

**New Recommendation:** Close and flag.

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

86. 2019073991

**Opened:** 9/3/2019

**First Licensed:** 3/9/1987

**Expires:** 12/19/2019

**Type of License:** Affiliate Broker

**History:** None

Complainant is an out-of-state resident. Respondent is a real estate licensee.

Complainant alleges that they have not received the disbursements on six (6) rental properties since February 2019 for a total of \$31,244.79. Complainant states that they made numerous requests transfer deposits to the new property management company since July 15, 2019. Complainant states that they have not received a response from Respondent. Complainant attached copies of the reports they have received in the past regarding their rental properties.

Respondent has not filed a response to date.

**Recommendation:** Civil penalty of \$1,000 for failure to respond.

**Decision:** The Commission voted to issue a civil penalty of \$1,000 per property for six (6) properties for violations of Tenn. Code Ann. § 62-13-312(5), and a \$1,000 civil penalty for failure to respond, for a total civil penalty of \$7,000.

**New Information:** This complaint is similar to several complaints the Commission has received involving the same Respondent. Counsel is unable to locate Respondent or provide a status update on their whereabouts. Therefore, Counsel recommends this matter be closed, flagged, and referred to the appropriate District Attorney General for potential prosecution and/or investigation.

**New Recommendation:** Close, flag, and refer to the appropriate District Attorney's office.

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

**87. 2019062101**

**Opened: 7/17/2019**

**First Licensed: 9/7/2017**

**Expires: 9/6/2019**

**Type of License: Affiliate Broker – Expired**

**History: None**

Complainant is anonymous but states they are a licensee. Respondent was an affiliate broker at the time of the complaint but they have since been released from their firm and their license has expired.

Complainant alleges Respondent operates an unlicensed real estate firm focused on “wholesale, off market deals.” According to Complainant, this business was separate from their work as an affiliate broker, noting that Respondent failed to disclose their status as a licensee on the unauthorized firm’s website. Complainant provided a copy of an email purportedly sent by Respondent which includes phrases such as, “We LOVE working with Realtors – If you have a CASH BUYER for this property, we WILL pay your commission!” and “We send OFF-MARKET deals in [Redacted] and the surrounding areas!” The email also includes the following disclaimer: “Properties will be sold via assignment or double close.” Counsel notes that one could easily infer that Respondent was employed by the website/company, as the email came from “[Respondent]@[the website].com”.

It does not appear that Respondent is the operator of the website, but there are other issues. Respondent provided a letter from the website/business owner, who states they use Respondent for listings and as their exclusive buyer representative. The business owner also stated that the email included in the complaint was sent by an automated “virtual assistant” and that Respondent is not their employee. Respondent provided copies of the agency agreements, both of which are TR forms and use their former firm’s letter head. Both documents list the former firm as the broker and are signed by Respondent. Respondent’s principal broker does not appear anywhere on the forms.

Counsel notes that Respondent was released by their former principal broker shortly after this complaint was filed. Counsel reached out to the PB for additional information but did not hear back prior to the submission of this report.

It appears more likely than not that Respondent is in violation of T.C.A. § 62-13-312(b)(11), which makes it unlawful for an affiliate broker to accept a commission from any person other than the principal broker with whom the licensee is affiliated. Respondent has no prior disciplinary history.

**Recommendation: \$500 civil penalty.**

**Decision: The Commission voted to issue a \$1,000 civil penalty.**

**New Information: Counsel has sent Respondent multiple notifications for the Consent Order and requested additional information for Respondent’s address. Furthermore, Respondent’s**

license has been expired since September of 2019. All of Counsel's mail has come back returned and efforts to locate Respondent have been unsuccessful. Therefore, Counsel recommends this matter be closed and flagged and addressed again should Respondent renew their license or reapply.

**New Recommendation:** Close and flag.

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

Chairman John Griess adjourned the meeting at 12:18 P.M.