



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 October 08, 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 Steve Guinn, Commissioner Joe Begley, Commissioner Jon Moffett, Commissioner Stacie Torbett, Commissioner DJ Farris, Commissioner Joan Smith, and Commissioner Geoff Diaz. Quorum Confirmed. Others present: Executive Director Caitlin Maxwell, Associate General Counsel Anna D. Matlock, Associate General Counsel Shilina Brown, Deputy General Counsel Mark Green, 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.

Motion to approve the “Statement of Necessity” was made by Vice-Chair Franks and seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

The October 08, 2020 board meeting agenda was submitted for approval.

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

Minutes for the September 09, 2020 board meeting were submitted for approval.

Motion to approve the September 09, 2020 minutes was made by Commissioner Diaz and seconded by Commissioner Begley. Motion passed unanimously by roll call vote.

Minutes for the Emergency meeting held September 17, 2020 were submitted for approval.

Motion to approve the September 17, 2020 minutes was made by Commissioner Guinn and seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

INFORMAL APPEARANCE

Lyle Perez-Tinics appeared before the Commission with his Principal Broker Robert Hicks seeking approval for his Affiliate Broker license.

Motion to approve Lyle Perez-Tinics was made by Commissioner Begley and seconded by Commissioner Diaz. Motion passed 8-0 on roll call vote. Commissioner Begley was not present for the vote.

EDUCATION REPORT

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

Motion to approve courses O1-O10 was made by Vice-Chair Franks and seconded by Commissioner Diaz. 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 Begley. Motion passed unanimously by roll call vote.

EXECUTIVE DIRECTOR'S REPORT

Director Maxwell updated the Commission on licensing & complaint numbers. She also informed them on the below topics.

- **LICENSING:** Director Maxwell advised the commission that we received an increase in initial applications for the month of September with 647 initial applications.
- **BOARD MEMBER ORIENTATION:** Director Maxwell and Legal Counsel will hold orientation for all members at the start of the November meeting.
- **KENTUCKY RECIPROCAL AGREEMENT:** Director Maxwell advised that she

would be meeting with the Director of KREC. Commissioners were given a copy of the Reciprocal Agreement sent to KREC.

- **MISCELLANEOUS:** Director Maxwell clarified the Consent Order process.

COMMISSION DISCUSSION:

- **Bill Tune Award:** Chairman Griess made the motion to present former Commissioner Bobby Wood with the Bill Tune award. Motion was seconded by Commissioner Begley. Motion passed unanimously by roll call vote.
- **Remote Education Courses:** The Commission discussed continuing the approval of remote courses in the current format until ARELLO presents synchronous course approvals. Motion to approve was made by Commissioner Begley and seconded by Commissioner Smith. Motion passed unanimously by roll call vote.
- **Lender Opinion Request:** After review of the request and discussion from the commission with Legal Counsel, the Commission agreed that “Gift Cards” are considered cash when offered as an inducement Motion made by Commissioner Diaz and seconded by Commissioner Farris. Motion passes unanimously by roll call vote.

LEGAL UPDATE: Deputy General Counsel Mark Green advised the commission of legal’ s opinion in respect to commission disbursements by the Principal Broker or a third party. The commission requested the AG’s opinion on Tenn. Code Ann. § 62-13-312(11).

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 1-55 with exception of the following cases which were pulled for further discussion: 2020029981, 2020045231, 2020051191, 2020043501, 2020020901, 20219066961 was made by Commissioner Diaz, and seconded by Commissioner Smith. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020029981, Vice-Chair Franks made the motion **to defer this matter for sixty (60) days and to send it for investigation and present it at the December meeting.** The motion was seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion **to issue a \$1,000.00 civil penalty for failure to disclose personal interest in the transaction and \$1,000.00 for an advertising violation, for a total civil penalty assessment of \$2,000.00 in civil penalties and also a four (4) hour Continuing Education Class in Contracts to be completed within 180 days of the execution of the Consent Order and in addition to the**

requisite CE classes. On complaint 2020045231, seconded by Commissioner Begley. Motion passed 8-0 by roll call vote. Commissioner Begley was not present for the vote.

After further discussion by the Commission on complaint 2020051191, Chairman Griess made the motion **to accept counsel's recommendation.** The motion was seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion **to accept counsel's recommendation, but also voted to open a complaint against the Principal Broker of the firm for failure to supervise.** The motion was seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020020901, Vice-Chair Franks made the motion **to Close and Flag and also refer the matter to the local District Attorney's Office.** The motion was seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 20219066961, Vice-Chair Franks made the motion **to continue with their original decision and to move forward with a hearing in this matter.** The motion was seconded by Commissioner Guinn. Motion passed 5-4 with Chairman Griess, Commissioner Moffett, Commissioner Begley, Commissioner Diaz voting against.

New Cases to be Presented

1. 2020033271

Opened: 6/8/2020

First Licensed: 7/27/2017

Expires: 7/26/2021

Type of License: Affiliate Broker

History: None

This complaint was referred to the Tennessee Real Estate Commission from the Tennessee Board of Accountancy. The Respondent is a licensed Tennessee Affiliate Broker. The Respondent held himself out as a licensed Tennessee Certified Public Accountant in a transaction.

The Respondent provided a response and stated the Respondent inadvertently violated a Board of Accountancy Rule by including in a Facebook™ profile indicating the Respondent was a CPA. The Respondent is a licensed CPA in Texas by the Texas State Board of Accountancy. The Respondent did not know this was impermissible and the Board found he was guilty of holding himself out at a CPA in practice. The Respondent does not practice as a CPA in Tennessee and does not hold himself out as a CPA to anyone during any business dealings in Tennessee. The Respondent has removed any reference of "CPA" from all social media. The Respondent became a licensed real estate broker in Tennessee in 2017 and has not represented a buyer or a seller as a real estate agent in Tennessee or been a party to a real estate buyer agreement in Tennessee. The

Respondent has also never been paid any commission or other compensation related to any real estate transaction.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

2. 2020030651

Opened: 5/26/2020

First Licensed: 1/16/2013

Expires: 1/15/2021

Type of License: Real Estate Firm

History: None

The Complainant is a Tennessee property owner and out-of-state resident and the Respondent is a Tennessee licensed real estate firm.

The Complainant owns a 37-unit apartment complex and resides out-of-state. The Complainant alleges the Respondent has mismanaged the Complainant's property. The Respondent managed the Complainant's property from December 2019 to March 2020. The Complainant was advised one of the Section 8 tenants was without a working stove for five months and did not want to move. The tenant did not file a complaint with the local housing authority because the tenant did not want to be removed from the unit. The tenant filed multiple requests with the Respondent and there were several work orders issued, but the stove was never replaced. The Complainant purchased nine stoves, microwaves and refrigerators that were held and placed in a storage unit to be used as replacement appliances for these units and the stove could have been quickly installed. During a visit to Tennessee, the Complainant discovered several issues concerning the property management of the Respondent when visiting the apartment complex at the end of March. Additionally, the Complainant paid the Respondent \$16,000 to make three units rent ready and when the Complainant viewed the units, the Respondent had failed to prepare the units to be rented and the units were unrentable. There is water damage to one unit and no working air conditioning in another unit. The outside condenser and water shut-off valve is not up to code. The unit was not ready. The Respondent had over two months to prepare the units to be rented. The Complainant had to hire an outside contractor to complete the project. Also, the Respondent has failed to return the \$16,000 paid for preparing the units to the Complainant. Also, the Respondent installed a camera and failed to notify the Complainant about the installation of a camera at the apartment complex. The Complainant also learned the tenants have complained of a sewage backup for the past several months. The Respondent's maintenance director claimed to have no knowledge about the issues and the maintenance director was terminated by the Respondent at the end of March. The Respondent uses a third-party maintenance company that does incomplete work and charges the Respondent excessive fees for incomplete repairs.

The Respondent provided a response and included all invoices for repairs to the various units in the apartment complex. Although the invoices show the charges, it appears the units were not properly being maintained. The invoices show pictures of the problems and some of the work being performed, however, the billings are excessive, and it seems the work is not completed

timely and the Respondent is continuously billed. The Respondent claims the \$16,000 was used for the repair of the flooring in the units, however, these amounts were to be used to make the units rentable. The units do not appear to be properly maintained and the Respondent is not actively engaged in the management of the property and relies on the third-party maintenance crew to address repairs. The Respondent stated the repairs were completed as required by the third-party maintenance company and provided several invoices. The charges for service for each of the maintenance requests were taken out of the monthly rents of tenants. The Respondent claims three units were prepared and new flooring was installed, and the Respondent provided invoices for the flooring. According to the Complainant, after terminating the relationship with the Respondent, the Complainant had to hire other individuals to make the units rentable. The entire amounts provided by the Complainant should have covered the cost of making the units rentable. There was a small balance of \$680 remaining which the Respondent had not timely returned to the Complainant.

Recommendation: Authorize a formal hearing and assess a civil penalty for \$2,000 for the following violations: failing to diligently exercise reasonable skill and care in providing services pursuant to 62-13-403(1) and failing within a reasonable time to account for or to remit any moneys coming into the licensee's possession that belong to others pursuant to Tenn. Code Ann. § 62-13-312(5).

Commission Decision: The Commission accepted counsel's recommendation.

3. 2020029981

Opened: 6/1/2020

First Licensed: 3/12/1999

Expires: 3/1/2013

Type of License: Principal Broker

History: 2012 Revocation for failure to remit monies belonging to others

The Complainant is a Tennessee resident and the Respondent is a Tennessee licensed Principal Broker. The Complainant alleges the Respondent held a Principal Broker's license which was revoked on November 7, 2012. The Complainant owns a four plex rental property in Tennessee and the Respondent agreed to handle the rental and property management of the four plex for the Complainant and would function as the rental manager. The Respondent was responsible for handling the rental of the units, tenant issues, collection of rents and forward the net rent payments after deducting fees and charges. The Complainant entered into a written agreement with the Respondent. In the Fall of 2019, the Respondent gave notice to the Complainant indicating the Respondent could no longer manage the property effective December 31, 2019. From October 2019 to the end of the year, the Respondent stopped sending the Respondent any net rental proceeds and continued to collect rent from the tenants. In January 2020, the Complainant could not get in touch with the Respondent and her telephone numbers were disconnected. The Complainant has a new property manager and has not been able to contact the Respondent and has not received any monies.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of

\$2,000 for the following violations: Tenn. Code Ann. § 62-13-312(5) for failing within a reasonable time account for or to remit any moneys coming into the licensee's possession, for the unlicensed practice of real estate pursuant to Tenn. Code Ann. § 62-13-301

Commission Decision: The Commission elected to defer this matter for sixty (60) days and to send it for investigation and present it at the December meeting.

4. 2020041391

Opened: 6/29/2020

Formerly Licensed: Expired Timeshare Salesperson

History: None

The Complainant is a Tennessee resident and the Respondent is a Tennessee registered time share company.

The Complainant purchased a time share from the Respondent in December 2013 and is dissatisfied with the Respondent's customer service. The Complainant alleges Respondent has been unresponsive to the Complainant's concerns and will not cancel the contract for the timeshare. The Complainant has also removed his wife from the time share deed to try to ensure she is not responsible for the timeshare upon the Complainant's passing. Complainant believes he should not be locked into something the Complainant is unhappy with forever. The Complainant has tried to make arrangements to donate the timeshare to a church or other organization and has been unsuccessful.

The Respondent's employer confirmed the Respondent worked as a timeshare registration agent during this period and provided a response on behalf of the Respondent. The Respondent stated the sale of the timeshare occurred on February 11, 2013 and the first complaint filed with the Respondent by the Complainant was on December 2, 2019. The Respondent does not accept surrender of deeds in this situation. The Respondent will accept a surrender of the deed if none of the heirs of the estate want to retain ownership. Also, the Respondent has recommended the Complainant list the deeded week for sale and sell the interest in the timeshare week.

Pursuant to Tenn. Code Ann. § 66-32-119, the statute of limitations for rescission of the validity of a timeshare contract has expired. The cancellation must be done within a four (4) year period of the date of the contract.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

5. 2020044421

Opened: 6/29/2020

First Licensed: 9/6/2007

Expires: 9/5/2021

Type of License: Affiliate Broker
History: None

The Complainant is a Tennessee resident and purchaser of real estate. The Respondent is a licensed Tennessee Affiliate Broker.

The Complainant purchased a parcel of land and alleges the Respondent misrepresented the presence of property on a parcel of land being sold. The Complainant indicated when the property was sold the Complainant was under the impression the property would be sold with a herd of cattle, electric fencing, a solar power unit for the fencing, cattle enclosure fencing and a feeder cage. Most of this property was the property of the caretaker of the Seller. There was also a hay wagon in the barn belonging to another individual and did not belong to the Seller. This information and ownership of the property on the land was never communicated to the Complainant until after the closing. Also, the caretaker was given written permission by the Seller to have 45 days to vacate and remove all items and the Complainant was told about the agreement after the closing. The Complainant wanted the animals removed on the day of the closing because of concerns about potential future liability if the animals remained on the property after the closing. The Complainant alleges the Respondent misrepresented the ownership of all the items located on the property.

The Respondent provided a response and stated this is not the correct person. This appears to be a case of mistaken identity and the Respondent was not involved in this transaction. The last names are the same and the individuals work in the same city, however, this Respondent is not the correct individual. This Respondent does not work for the real estate firm identified in the complaint and has no knowledge or involvement in the transaction. Upon review of the transaction document, the wrong Respondent was named in the Complaint. A complaint will be opened against the correct affiliate broker.

Recommendation: Close and open a complaint against the correct Affiliate Broker.

Commission Decision: The Commission accepted counsel's recommendation.

6. 2020045741

Opened: 6/29/2020

First Licensed: 2/12/2015

Expires: 2/25/2022

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and Seller of a home. The Respondent is a licensed Tennessee Principal Broker and listing agent for the Seller.

The Complainant alleges when the offer was made in April 2020, there were several issues that arose that concerned the Complainant. The Complainant alleges the Respondent communicated

confidential information to the Buyer's agent after being instructed to maintain the confidentiality of the Seller related to an issue with a neighbor. The Sellers had obtained a restraining order against the next-door neighbor. The Complainant stated the Respondent had a fiduciary duty to make sure this information was not shared with the Buyers. Also, the Complainant alleges the Respondent did not share details of the sale including the documents related to earnest funds and loan information of the Buyer. The Respondent apologized, however, the issues continued when the Buyer's loan was delayed and impacted the timeliness of the closing. These matters were not properly communicated by the Respondent. According to the Complainant, the Respondent acted as a transaction broker rather than the Seller's broker. The closing was extended twice, and the Complainant was not provided a legitimate reason. During the extension, the Buyers had some personal issues which added to the extensions. The Complainant alleges this information was not transmitted to the Complainant by the Respondent. The Complainant was often told by the Respondent that the Respondent did not know what the Complainant was referencing. The closing occurred in mid-June 2020 and the Complainant had not been advised the Buyers had not closed on the home. The Complainant tried to contact the Respondent on three occasions and the Respondent failed to respond to any of the phone calls. The Complainant stated the preoccupancy monies from the Buyers in the amount of \$700 was not part of the closing and the Complainant was informed it would be sent separately by overnight mail. As of the date of the filing of the Complaint, three days after closing, the Complainant still had not received the funds. The Complainant texted the Respondent and never received a response. The Complainant had to contact the Buyer's agent. The Complainant was not provided with any information concerning tracking of the funds or the way the monies were sent. The Complainant stated a home purchase out-of-state was contingent upon the sale of the home in Tennessee and the Respondent was not concerned or understanding about the situation. The Complainant stated the out-of-state agent required a death certificate from the Buyers to explain why the closing had to be delayed. The Complainant did not charge the Buyers to occupy the home the first week, but as there continued to be delays, the Complainant need to be compensated, because some of the Complainant was still unable to close on the out-of-state home and family members had to sleep in a truck. The main problem arose because the Sellers, Broker and Title Company in Maine were upset and frustrated by the delays.

The Respondent provided a response and stated the Complainant contacted the Respondent to list the home at the end of February, which had already been on the market with another real estate broker. The Complainant requested the other broker release the Complainant from the contract. The Complainant was involved in a lawsuit with the neighbor about a driveway easement. The house was listed for sale on March 3, 2020 by the Respondent. There were certain buyers that were not permitted to view the home and the Complainant provided a list of those individuals because the Complainant was worried the neighbors may try to conspire against the Complainant. The Complainant was also looking for another home in the area and was unable to obtain a loan because the Complainant did not have enough income from the Complainant's cleaning business. The Complainant was losing quite a bit of business also because of the COVID-19 pandemic. The Respondent even offered the Complainant the opportunity to clean homes that the Respondent was getting ready to close. The Complainant took those two jobs from the Respondent. The Complainant finally found a home in another state at the price point the Complainant needed and the Complainant would be relying on the proceeds from the sale of the home in Tennessee. When an offer was made on the home, the home inspection was done and there were several items that

needed to be repaired. The Complainant refused to make the repairs, however, the Buyers continued with the purchase. The Complainant indicated there was a need to close by March 29, 2020 because of the out-of-state purchase of a home and the Respondent relayed the information to the Buyer's agent. The Complainant was upset the Respondent had shared the Complainant was moving out-of-state with the Buyer's agent because the Complainant was worried the neighbor would find out this information. The only reason the Respondent shared this information was to make sure the closing was timely and to get the earliest closing time possible for the Complainant. The Respondent did not disclose an address or give any specific details. In fact, the Respondent made sure not to share the state where the Complainant was going to move, however, the Respondent learned the Complainant had already shared with several individuals the state where the Complainant was planning on moving, including the details of the Complainant's Agent, Agent's Broker and the title company. The Complainant later also directed the Respondent to provide the Tennessee Buyer's agent the address in the state where the Complainant was moving to send the additional monies to the Complainant. The Respondent apologized to the Complainant and did not breach any confidence of the Complainant. The lender had indicated there would be no problem closing at the end of May, however, the extensions arose due to the lender and the Respondent had no control over the lender or the dates. The Respondent also stated the Complainant agreed to extend the closing dates. Also, there was also a delay in the appraisal, and this was communicated to the Complainant and the Complainant agreed to the extension. The Complainant allowed the Buyers to do an early occupancy on the home and was paid by the Buyers for the early occupancy period even though the Buyers did not actually move into the home until after the closing. The Buyer's agent informed the Respondent the Buyer's mother had passed away and could not close on June 5, 2020 because it was the day of the funeral in another state. The Respondent contacted the Complainant and stated there was a family emergency and the Complainant became very irate and stated the Complainant needed to see a death certificate and would not agree to any more extensions. The Respondent stated the Complainant began to yell at the Respondent and stated the Respondent was acting merely as a facilitator and not as the Complainant's real estate agent. The Respondent apologized and stated this was out of the Respondent's control and there was a legitimate reason to reschedule the closing and it could not be done on June 5th. The Complainant told the Respondent, the Complainant would be contacting an attorney and see if it was even possible to extend the closing date. Following this phone conversation, the Respondent did not speak to the Complainant on the telephone again and all future conversations were by group text or e-mail with the title company, buyer's agent and the Complainant's real estate agent in Maine. After the Respondent received the news of the Buyer's mother's death, the Buyer's agent broker called to let the Respondent know the agent broker needed to have emergency spinal surgery to remove a tumor from the broker agent's spine. This was another reason why the closing needed to be postponed and this was beyond the Respondent's control. The Respondent had to share this news with the Complainant and the Complainant demanded large sums of money from the Buyers in order to extend the closing to June 12, 2020, which was one week later than was originally agreed to by the Complainant. The Respondent contacted the Complainant's agent in Maine and this agent was also very understanding of the situation. The Respondent also indicated the Complainant signed a COVID-19 disclosure at the beginning of the transaction which provided for a 14-day extension. The lender even indicated the transaction was delayed because of the COVID-19 pandemic. The Complainant told the Respondent the COVID-19 pandemic had nothing to do with the delays. The closing occurred on June 12, 2020 and the Buyers were coming back from the out-of-state funeral and were not

permitted to enter the bank because of the COVID-19 pandemic and had to make an appointment with the bank. The bank would only allow them to have an appointment in the afternoon. The Respondent was unable to receive the phone calls of the Complainant because the Respondent was attending a closing and was unavailable. As soon as the closing concluded, the Respondent sent a text to all the parties. The Respondent had the title company wire all funds to the Complainant's title company. The Respondent did respond to the text from the Complainant concerning the early occupancy funds on the same date. The Respondent always promptly responded to the Complainant. The Respondent always communicated with the Complainant concerning all matters related to the sale of the real property and included proof of all documents sent to the Complainant related to the earnest money and other matters. The loan information had to be provided by the lender and the Respondent did not have access to the Buyers' loan information. The Complainant sent the Respondent multiple texts stating the Complainant loved the Respondent as a real estate agent. The Respondent even gave the Complainant a closing gift and the Complainant stated the Respondent had changed the Complainant's life for the better by being the Complainant's real estate agent.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

7. 202036711

Opened: 6/29/2020

First Licensed: 10/12/1982

Expires: 7/9/2020

Type of License: Real Estate Firm

History: None

The Complainant is an Indiana resident and purchaser of a timeshare property. The Respondent is a licensed Tennessee Real Estate Firm.

The Complainant alleges the Respondent's salesperson came to see the Complainant in December 2019 and told the Complainant there was a way to save on maintenance fees on the various timeshare point programs. The Complainant was told that if two weeks were purchased, the Complainant could obtain 10 weeks with RCI and could exchange them at no cost to a different location. The cost for this would be \$14,900 and it would be interest free for the first six months. The Complainant contacted the Respondent's salesperson and was told the information would be obtained and provided to the Complainant. The Complainant contacted RCI and found there was a \$239 exchange fee to make an exchange of location. On January 21, 2020, the Complainant received a letter from the Respondent providing some of the information but did not provide all the information. The Complainant wanted to cancel the contract and was told cancellation could only occur within 60 days. The Complainant has called the Respondent to cancel at least 15 times to follow-up and the Respondent did not return the telephone calls. The Complainant would like a refund of the \$14,900 on the credit card.

The Respondent provided a response and stated the Complainant purchased two weeks in a timeshare resort while visiting the properties in December 2019. The Complainant is permitted ten days under Tennessee law and 14 days under the Mastercard chargeback policy to cancel the purchase. The Complainant failed to cancel within the required periods. At some point, the Complainant decided to dispute the purchase with Mastercard and after an investigation, the Complainant was informed the refund was denied because there was no wrongdoing and a legitimate charge. The Complainant was never told there would be no exchange or transaction fees and all the documents provided to the Complainant and initialed by the Complainant on the specific page of the disclosure guide indicated clearly there was an exchange fee and all costs of the membership. The Complainant owns other timeshares and was interested in selling the other timeshare properties. The Complainant has been provided with the information to sell those timeshares; however, this was not a condition of the current purchase with the Respondent. The Complainant did receive all promised information on the use of the timeshare and the timeshare program, and this material is automatically sent to all owners when the credit card account is activated and provides a step-by-step instruction on how to activate the account. The Respondent did not engage in fraud, misrepresentation, deceit or any other unethical practices in the sale of the timeshare to the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

8. 2020036781

Opened: 6/29/2020

Unlicensed

History: None

Complainant is an out-of-state resident. Respondent is an unlicensed real estate firm.

Complainant alleges that Respondent is engaging in unlicensed activity. The complaint against the individual was dismissed since all the properties purchased are held in the name of the limited liability company's name and this complaint was opened.

The Respondent did not provide a response to the Complaint.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for failure to provide a response pursuant to Tenn. Code Ann. § 62-13-313(2).

Commission Decision: The Commission accepted counsel's recommendation.

9. 2020045171

Opened: 6/29/2020

First Licensed: 7/9/2012

Expires: 7/8/2022

Type of License: Real Estate Firm

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee real estate firm.

The Complainant was planning on moving into a rental home and received a signed lease from the landlord in June 2020. The Complainant paid the \$1,200 fee for rent and utilities for the rental through PayPal™ due to the COVID-19 pandemic and received the one-time pin for the lockbox to get the key. The Complainant began to move into the home and realized this was a scam when the owner of the property never showed up to obtain the additional \$950 due to the Respondent. The Complainant immediately began to investigate who owned the property. The Complainant contacted the Respondent and explained what had happened. The Respondent contacted the Complainant and instructed the Complainant to remove all items from the home immediately or the real owner was going to file a trespassing notice. The Complainant removed all the items the Complainant could quickly remove. The Complainant also filed a complaint with the Sheriff's Office and brought the key back to the Respondent. The Complainant was told this had happened three other times to one of the agents at this real estate branch office, but not to the point where someone had moved into a rental property. The scammer knew all the one-time passwords and pin codes for the home and knew which properties had all the utilities included in the rental payment. The Complainant alleges fraud by the Respondent.

The Respondent provided a response and stated the Complainant made them aware of the situation and cooperated with the Complainant. The Respondent encouraged the Complainant to contact the local police and file a police report. The Respondent stated this is the first time this has happened with the current vendors for the current software being used for marketing and showing properties. This has happened with other firms, but were unaware of the scammer tactics, therefore, the Respondent could not have taken any preventative measures to prevent this occurrence from happening to the Complainant. Following this incident, the Respondent discovered one of the services the Respondent used for rental properties may have made it easier for scammers to obtain showing codes without speaking to any agent at the Respondent's firm. The Respondent has changed the policies to ensure that this situation does not occur again. The Respondent does not accept payments through PayPal™ and has not accepted any rental payments through PayPal.™ The Respondent is apologetic this happened to the Complainant; however, the Respondent does not know believe there has been any misconduct by the firm or any of the brokers.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

10. 2020047001

Opened: 6/29/2020

First Licensed: 3/28/2017

Expires: 3/27/2021

Type of License: Real Estate Firm

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate Firm.

The Complainant alleged there was a contract with the Respondent's Buyer for the purchase of a home with the intent to renovate it and relist it for sale. The Buyer's agent requested time to perform an inspection and allow the Buyer's contractor to view the property and give bids for the renovations. The Complainant was advised that during one of the showings, the Respondent allowed an "open house" for investors to view the home. After the home was under contract, the home was marketed to other agents and investors by the Respondent as an investment opportunity and it is obvious the Buyers did not intend to purchase the home, they were purchasing the home to try to flip the contract to another investor.

The Respondent provided a response and stated the Respondent represents various parties in various residential home purchases. The contract for the property allowed a six-day inspection period for the Buyer. The Respondent does not engage in "flipping" contracts on properties that are under contract for purchase. The Buyer purchases residential properties in the Middle Tennessee area. The Buyer's agent acts as the authorized signer and signs closing documents on behalf of the investment company. The Respondent submits the funding for the purchases of approximately 15-20 properties per month and this can be verified through CRS and local county deed records. The Respondent's agent is a licensed Tennessee Principal Broker. The only materials ever compiled related to properties under contract for purchase were for the sole use of the individuals involved in the transaction and were not disseminated outside to those the information was intended. The individuals involved are directly related to the Respondent's ownership group which is a consortium of private investors and any licensees of the Respondent who assisted with the transaction. No materials were ever publicly marketed or advertised by the Respondent and the Respondent never provided any such material to any third-party. The Respondent does not know why or how any third-party would have obtained any information concerning the subject property. The Respondent suspects one of the private investors may have inadvertently forwarded the information and this is something that should not have happened. The Respondent is a high-volume buying entity in Tennessee and purchases many residential properties with various exit strategies in mind and funds each transaction with their own cash funds. The Buyer's sole intent to bring various individuals was to assess and inspect the property to confirm it fell within the buying criteria of the investment group.

There are no violations of the Tennessee Real Estate Broker License Act of 1973.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

11. 2020041001

Opened: 6/29/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration

History: None

The Complainant is a Kentucky resident and purchaser of a timeshare property. The Respondent is a licensed Tennessee Time Share Registrant.

The Complainant went on a honeymoon and stayed at the Respondent's property in Tennessee for one week during the period of March 31, 2019 and April 7, 2019. The Complainant attended a sales presentation held by the Respondent. At the end of the presentation, the Complainant was told the purchase of the timeshare could be cancelled at any time and any funds paid would be refunded. The Complainant later found there was only a ten-day cancellation period and it was too late for the Complainant to cancel the purchase. The Complainant also stated the Respondent would roll in all payments into one payment, however, Respondent is having to make more than one payment from a credit card and the payments were not rolled into one payment.

The Respondent provided a response and stated the Complainant purchased the timeshare on April 2, 2019 and received a certain number of points for the purchase to use towards a timeshare stay at a property. The Complainant also had the option to apply for a vacation club credit account which is an open-ended credit plan. The Complainant also applied for the credit card and was charged \$8,449.50 for the down payment, with access and processing fees. All disclosures are provided at the time of the purchase and all communications and disclosures are also sent directly to buyers and credit card holders from the credit card company. The Complainant also signed and received a pre-authorization auto pay plan set-up form and it authorized the Respondent to charge and pay the monthly loan payment of \$155.74 plus the assessment payment of \$54.85 and the annual membership fee of \$59.95 using another Mastercard credit card. Timeshare purchasers are not required to finance their own loan or maintain financing through the Respondent and there is no prepay penalty for the purchase of a timeshare. The Complainant also received a 30-day interest-free certificate for the new credit card which would allow them the option of paying no-interest on the balance if the total amount of \$8,424.50 was paid within the thirty day period of the date listed on the certificate. The contract documents were signed by the Complainant and all documents and agreements were provided to the Complainants at the time of the purchase. There were also documents including ownership review and buyer's acknowledgements signed by the Complainant at the time of the purchase to avoid any misunderstandings and to help them understand the product being purchased. There were also details concerning ownership, discounts, down payments, monthly assessments, loan payments, programs, resale assistance, rental income, any investment and tax benefit and rescission rights. After the rescission period, the contract becomes legally binding between the parties. Based on the information provided in the complaint and review of the transaction, the Respondent did not find any information substantiating the allegations by the Complainant and therefore, the Respondent denies the cancellation request of the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

12. 2020041021

Opened: 6/29/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration

History: None

The Complainant is a Tennessee resident and the Respondent is a Florida timeshare corporation and a licensed Tennessee Time Share Registrant.

The Complainant alleges the Respondent has ruined the Complainant's entire vacation experience and the Complainant can no longer tell friends and family about how great timeshare ownership can be because of the Respondent's actions. The Complainant is requesting to cancel the contract and have all payments returned to the Complainant.

The Respondent provided a response and stated the Complainant purchased a property in 1997 and in 2011, 2012, 2014 and 2018. The Respondent stated they take all complaints seriously and have been unable to review the complaint in this instance to determine the validity or whether they can be substantiated. The Respondent cannot verify any of the details and must rely on the statements and signature of the Complainant. During a visit to the property, a guest is invited to attend a sales presentation and receives a gift for attending the presentation as an incentive to attend. It is an opportunity for guests to determine if there is any interest in either purchasing a new timeshare or making an additional purchase. The guest is only obligated to attend the sales presentation for a minimum set period. The length of the presentation can vary depending on the interest of the attendee. The guest can also leave if desired after the minimum time period. The purchase option and terms offered can vary from sales office to sales office. The purchase price and maintenance fees charged being offered can also vary from sales office to sales office. In this instant matter, the Complainant traded an existing contract to utilize the equity to purchase the existing contract which and this included the right to participate in the access vacation ownership plan and the right to use and occupy club accommodations. These are denominated in a point system and the Complainant agreed to the purchase an additional annual allocation of 805,000 perpetual points. Purchasers are also given the option of applying for a Visa™ credit card which allows the opportunity to obtain additional points to use with the Respondent. The Complainant was provided with all agreements at the time of the applying for the credit card and there are subsequent communications sent by the bank to the cardholders with all required disclosures. The Complainant could also apply for a PayPal credit account which is an open-ended line of credit. All terms and conditions were provided to the Complainant and all documents and disclosures are also sent by e-mail directly from the credit card company. The Complainant purchased a Plus Club exchange program which offered a variety of resort locations, seasonality, lengths of stay and units' sizes. There are other available program features, memberships, discounts, and other

exclusive VIP membership benefits available to the Complainant. The Complainant also had access to the gold level which allows members to have access to more than 6,000 hotels, resorts and extended stay properties around the world and free hotel night stays with no blackout dates at participating properties in the U.S. and Canada. It also includes other reward point options such as airline tickets, restaurant gift certificates and other special member offers. The Complainant can also convert club points into rewards points for credit toward maintenance fees, dues and other domestic exchange fees. The Complainant was provided all acknowledgements and disclosure documents. The Complainant has used the option in August 2018 and in June 2019. The ownership points can be converted to plus points and dollars for maintenance and assessment fees. The Complainant used this option in March 2015. The Complainant have no record of past complaints and have never made any claims to the Respondent over the past several years. On January 9, 2020, the Respondent received the complaint from the Respondent, however, there were no grounds for cancellation of the contract. There was no information substantiating the Complainant's claims. As such, the Respondent has denied the cancellation request.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2020045071

Opened: 7/6/2020

First Licensed: 4/8/1994

Expires: 8/24/2022

Type of License: Real Estate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate Broker.

The Complainant alleges the Respondent does not have an address of the brokerage firm displayed on the website.

The Respondent provided a response and stated after 30 years, the Respondent transferred the license to another real estate firm and in the process inadvertently overlooked including the address on the website. The error was immediately corrected. This was the first violation for this individual in over 30 years.

Recommendation: Issue a letter of warning advising of the Tennessee Real Estate Commission's advertising rules concerning inclusion of the address of the real estate firm on the website.

Commission Decision: The Commission accepted counsel's recommendation.

14. 2020045231

Opened: 7/6/2020

First Licensed: 12/9/2019

Expires: 12/8/2021

Type of License: Affiliate Broker

History: 2020 Letter of Warning

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent advertises properties through Facebook™ and advertises homes or purchase. Some of the properties appear to be sold and there are also other videos of the Respondent soliciting the purchase of homes. The Respondent also advertises “Cash Sale,” “Quick Close,” “Max Value,” and “No Repairs.” The Respondent also advertises and offers “Cash for your property.” There are numerous advertising violations by the Respondent in the Facebook™ advertisements. There is also a purchase and sale agreement that states the Respondent purchased a property for \$40,000 and there is a statement that the Respondent expects to make a profit from the sale. There is an Addendum to the Purchase and Sale Agreement with another party disclosing the Respondent is going to assign the Purchase and Sale to a third-party. This agreement states the Respondent is the Buyer and the also self-representing as the real estate licensee. The Respondent never sent over the Purchase and Sale Agreement with the signature of the Buyer. The Respondent did cooperate with all showings and a termite inspection and verbally agreed to the contract and even set a closing date for the Buyer. The closing agent was not aware of the Seller of the property until the Respondent mentioned the owner still owned the property and had an assignable contract. There were a several concerns by the closing statement. The commission was listed as the referral fee was to be paid to a real estate firm. The compensation to the Respondent was listed under the Assignment Fee. The Complainant alleges there are violations the Tennessee Real Estate Commission’s rules of conduct 1260-02-.07 concerning “Net Price” Listing and 1260-02-.11 concerning Personal Interest.

The Respondent provided a response and stated assignable contracts are not being posted on websites or social media. The Respondent has clearly indicated the designation of real estate agent and/or broker affiliation. The Respondent follows all advertising requirements and the brokerage information is always one-click away from the posts and includes all the firm’s information, phone number, website, address, etc. The Respondent does not market net listings and does run all the transactions through the brokerage. Assignable contracts are not net listings and every transaction is processed through the Respondent’s firm. The Respondent does not post any signs indicating the Respondent buys homes or other language on signs. The Respondent does not have signs stating, “I buy houses,” however, there are other investors with similar signs and the Respondent does not know which signs the Complainant is referring to in the complaint. The only signs used by the Respondent are the official brokerage for sale signs. The Respondent does not have any personal connection with the Complainant and has only spoken with the Complainant on one occasion.

Recommendation: Close.

Commission Decision: The Commission elected to issue a \$1,000.00 civil penalty for failure to disclose personal interest in the transaction and \$1,000.00 for an advertising violation, for a total civil penalty assessment of \$2,000.00 in civil penalties and also a four (4) hour Continuing Education Class in Contracts to be completed within 180 days of the execution of the Consent Order and in addition to the requisite CE classes.

15. 2020064881

Opened: 7/6/2020

First Licensed: 12/9/2019

Expires: 12/8/2021

Type of License: Affiliate Broker

History: 2020 Letter of Warning

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent has continued to advertise assignable contracts on social media and websites. The Respondent has been posting them to various real estate investing groups while failing to disclose the Respondent is a licensed real estate agent. The Respondent offers the purchase of homes on social media posts and places signs around the city stating the Respondent buys homes. The Respondent also lists them as assignable contracts, rather than listing them through the brokerage. The Respondent continues to list these properties as net listings.

The Respondent provided a response and stated there are no assignable contracts being posted on websites and social media. The Respondent states this is incorrect and is in full compliance with the advertising requirements and all brokerage information is always just one-click away. The Respondent stated the assignable contracts are not net listings and every transaction is run through the brokerage firm. The Respondent only uses official brokerage for sale signs.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

16. 2020046701

Opened: 7/6/2020

First Licensed: 2/4/2003

Expires: 1/10/2021

Type of License: Principal Broker

History: 2007 Letter of Warning; 2010 Civil Penalty for failure to maintain E&O insurance

The Complainant alleges the Respondent's Affiliate Broker has failed to include the address of the brokerage firm on the website.

The Respondent provided a response and stated the Affiliate Broker left the previous brokerage firm after 30 years and this was an inadvertent oversight and mistake by the Affiliate Broker and was quickly corrected by the Affiliate Broker

Recommendation: Letter of Warning issued to the Respondent concerning supervision of Affiliate Brokers pursuant to Tenn. Code Ann. § 62-13-312(15) (failing to exercise adequate supervision over the activities of any licensed affiliate broker) and Tenn. Comp. R. & Regs. 1260-02-.01.

Commission Decision: The Commission accepted counsel's recommendation.

17. 2020048371

Opened: 7/6/2020

First Licensed: 8/5/2014

Expires: 10/16/2021

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Principal Broker.

The Complainant alleges the Respondent misrepresented the sale of the property. Complainant alleges the Respondent represented the herd of cattle, electric fencing, solar power unit to the fencing, cattle enclosure fencing and feeder cage, were included in the sale of the property. There was also a hay wagon in the barn that was being stored for another individual. The other items belonged to the caretaker of the property. The Complainant was informed the items were not included with the sale of the property until after the closing and the caretaker had never been informed about the sale of property and was still residing on the premises when the Complainant closed on the property. Additionally, the caretaker had an agreement with the owner that would allow the caretaker 45 days to vacate and remove all the items from the property. The caretaker would not remove the animals by the closing date and the Complainant did not have insurance liability coverage for the animals or the additional items on the property. The Respondent was not forthcoming about the information concerning the caretaker and did not relay the 45-day agreement to vacate the premises between the former owner of the property and the caretaker. The contract for the sale of property made no mention of any prior agreements, leases or other items on the property. The Respondent was unwilling to assist or resolve the situation at the time of the closing. The caretaker insisted on removing the items from the property and the Complainant objected to the removal of any items after the closing. The Respondent did not provide any further information concerning situation and would not confirm the validity of any such agreements with the former owner of the property and did not produce any written agreements between the caretaker and the former owner of the property.

The Respondent provided a response and stated this was a case of mistaken identity and a complaint should have been opened a different licensee with a similar name in the same area. The documentation for the transaction was reviewed and shows this Respondent was not the licensee

involved in this transaction.

A complaint will be opened against the correct licensee.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

18. 2020049111

Opened: 7/6/2020

First Licensed: 12/15/2004

Expires: 11/28/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is licensed Tennessee Affiliate Broker.

The Complainant placed a bid on a property and after two days of negotiations, the Complainant agreed to all the terms of the counteroffer. After a period of time, the Seller's agent contacted the Complainant's lender to obtain copies of the Complainant's bank statements to make sure the Complainant's had enough money in their bank accounts to cover the cost of all items agreed upon with the Sellers. The Lender did not provide the Seller's agent any information except what was required of the Lender. The Seller's agent tried on two separate occasions to get this information from the Lender and when the Seller's agent was unable to obtain this information, the contract with the Seller was cancelled. The Seller's accepted another offer from another Buyer for the property.

The Respondent provided a response and stated there were negotiations following an initial offer, however, the transaction was never consummated. The Respondent did not contact the Lender and ask for the Complainant's bank statements. The Complainants were asked on two different occasions by the Seller's agent if assets, income and employment had been verified by the Lender and if the closing date in the offer would be possible.

The Respondent's Principal Broker also provided a response and stated an offer was made by the Complainants and the Sellers presented a counteroffer. The Complainants presented a counteroffer and the Sellers rejected the counteroffer. There was not an active offer for the property. The Complainants' agent later emailed the Respondent and stated the Complainants wanted to make another offer for an amount greater than the original offer. This offer was not formally presented and was only in an e-mail. It was not an offer signed by the Complainants and not even submitted on a Tennessee Association of Realtors form. The listing agent requested a new pre-approval letter for the new amount and the Complainant's agent stated the Complainants would pay cash. The Sellers asked the Respondent to make sure the Complainants could pay for the home. The Respondent contacted the Complainant's Lender and asked if the Complainants could be approved for the amount and if the Complainants would be able to pay the different in cash. The Respondent asked the Lender if this was verified funds because the Respondent knew because of the COVID-

19 pandemic, the verification of funds was being done within the week before a closing. The Respondent did not request any copies of any bank statements. The Respondent was merely verifying with the Lender to make sure the loan officer had verified the funds. While this was going on, the Sellers received a couple of more offers on the property and the Respondent was aware all offers had to be submitted in writing. There was an offer that was much higher than the offer the Complainant's agent had stated in the email and the Sellers decided to accept the other offer. The Complainants never had a valid contract or a written offer on the property listing at the time the offer was accepted by the Sellers was submitted.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2020049161

Opened: 7/6/2020

First Licensed: 2/25/2015

Expires: 2/24/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent was very rude and told the Complainant not to use a certain lender and instead, recommended another lender. The Complainant got preapproved for a certain amount and was unable to find a suitable home. The Respondent told the Lender to increase the loan amount by \$20,000 and the Complainant still could not find a home. The Respondent, the Lender and the Lender's Assistant all advised the Complainant to look for a home in a higher price range because the Complainant would be receiving additional cash funds from the sale of the Complainant's current residence. The Complainant did find a home and even paid \$350 for the inspection and even had placed \$2,000 earnest money for the home, however, the home was sold. The Complainant stated the Complainant's time was wasted and the Complainant lost money and performed unnecessary repairs on the home. The Complainant alleges there was never an approval for the loan and only a preapproval. The Respondent and Respondent's broker demanded payment for the time spent searching for a home for the Complainant. The Complainant alleges the whole situation was a "scam" by the Respondent, who was looking for additional payments for their time.

The Respondent provided response and stated the Complainant contacted the Respondent for assistance with purchasing a home and to help sell the Complainant's current home. The Complainant told the Respondent the Complainant had preliminary approval for a loan for \$150K to \$180K but wanted to purchase a home and in a specific area for more than the current preapproval amount. The Respondent suggested the Complainant speak with a local lender and recommended a Lender to the Complainant. The Complainant submitted a mortgage application and provided an income level, however, the Complainant's financials did not support the purchase of a home at a higher price point. The Respondent also helped the Complainant obtain professional

photos of the Complainant's existing home to sell the home. The professional photographer had to be scheduled on two different times. The first time, the photographer showed up and the Complainant turned the photographer away because the Complainant was not prepared. The Respondent had to pay the appointment fee. The Complainant was given advance notice of the appointment and it was originally a time agreed upon by the Complainant. The appointment was rescheduled, and the photographs were taken. The Respondent was billed again for the photography appointment. The Complainant received several offers. The offer that was accepted for a dollar amount and without closing costs. The Buyer did submit a repair proposal which the Complainant refused to approve until the home's appraisal was completed. There were no repairs to the home completed during the entire listing period. The Complainant looked at homes in the \$180k to \$260K range and often contacted the Respondent and wanted to go view homes immediately. The Complainant would often tell the Respondent the Complainant could use a different agent if the Respondent was not available. The Respondent also added the Complainant was very indecisive and irrational during each showing appointment. The Respondent had a Buyer's Agency Agreement with the Complainant and the Respondent reminded the Complainant that it would be disappointing if the Complainant chose to go with another agent and not honor the agreement, especially considering all the time that had been spent already looking for a home. The Respondent continuously to reminded the Complainant to keep in touch with the mortgage company to make sure all the necessary approvals were in order in case the Complainant was ready to make an offer, the mortgage company could quickly authorize the amount because of a preliminary preapproval letter would be readily available and could be submitted. The Complainant chose a home in the \$260K price range and indicated there would be proceeds from the sale of the existing property and it would be okay to purchase the home in this price range. The Complainant wanted to proceed with a home and termite inspection on the property and the Respondent began to negotiate repairs with the Seller's agent. The loan officer informed the Respondent there was a huge discrepancy in the amount the Respondent would be approved for in the mortgage application and the actual amount the Respondent was preapproved. When the Complainant was notified about the preapproval amount the Complainant became very upset and defensive because it was much lower than the Complainant expected. The Complainant failed to disclose the child support payments, and this affected the Complainant's debt to income ratio. The Respondent attempted to counsel the Complainant, but the Complainant was dishonest on the loan application and this was the reason the Complainant did not receive final approval of the loan and only received a preliminary approval for a lower amount. The Respondent had to inform the current Buyer of the Complainant's home, the Complainant would not be able to sell the home and the Buyer's agent was very upset for the client who had already spent money on a home and termite inspection with no resolution and had to start the entire house hunting process again. The Respondent had to also notify the listing agent for the home the Complainant was not going to be able to purchase the home because the Complainant's finances had fallen through. The Respondent did not think the Complainant should be entitled to the return of the \$2,000 earnest money, however, the Respondent worked hard to obtain the return of those monies and also immediately removed the listing from the MLS, as was the duty of the Respondent. The Complainant wanted to be released from the agency agreement and the Respondent released the Complainant from the agreement. The Respondent's time and money had been utilized by the Complainant and the Respondent requested a termination fee of \$1,000 for the marketing expenses and photographs. The Respondent was never rude to the Complainant and did not receive any phone calls from the Complainant following delisting of the property. Instead, the Complainant

called the Respondent's Principal Broker and was very rude, impolite, loud, used profane and crude language while complaining about the Respondent to the Principal Broker. The Principal Broker had to terminate the telephone call to discontinue the argumentative nature of the conversation.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

20. 2020049471

Opened: 7/6/2020

First Licensed: 9/30/1987

Expires: 9/19/2022

Type of License: Real Estate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate Broker.

The Complainant contacted the Respondent to place a formal offer on a property. The Complainant was on the call with two other individuals and asked the Respondent what the lowest offer would be for the Seller. The Respondent indicated a price and the Complainant submitted an offer for the property. The Respondent later told the Complainant the price would work, and it was the highest bid. The Respondent set up a time to meet the Complainant and sign papers for an offer. One of the other individuals on the call received a phone call from a different agent of the same brokerage firm in the late afternoon and stated it was not necessary for them to come into the office on Monday because the bank had already accepted another offer. The Complainant did not understand what had happened because the Respondent had indicated the offer being given by the Complainant was the highest offer, the bank was closed on Sunday and the property was a foreclosure. It did not seem possible for the bank to have accepted an offer in the time frame. The home had only been on the market for six (6) days. The Respondent stated the offer from the Complainant had not been submitted and refused to provide information about offer amount that was accepted by the Bank. The other party working with the Complainant was willing to make a full asking price offer on the property and was told by the Respondent the Bank would not accept any other offers from them. The Complainant alleges the Respondent engaged in foul play and alleges the Respondent misused the real estate license by selling a property under the table.

The Respondent provided a response and stated when the Complainant contacted the Respondent, the Respondent indicated to the parties the Respondent did not know the lowest price the bank would accept for the property and just guessed the best price may be in the \$60K range because it was just placed on the market and it was a foreclosure. The Respondent was aware foreclosure asking prices did not come down very much in the first twenty (20) days and advised the Complainant there were already some offers submitted and there was one offer in negotiations. The Respondent told them to come to the office to submit an offer and the Respondent would wait for them if they wanted to come and submit an offer. The Respondent was very clear that the offer

must be in writing and it would have to be submitted through the offer portal. The Respondent also advised the Complainant it would be necessary to submit a lender letter of proof of funds with the offer. One of the individuals on the call indicated to the Respondent due to a work schedule, the earliest the parties could come to meet the Respondent would be on Monday evening and the Respondent agreed to meet the parties. There was another real estate agent that would assist them on Monday and the Respondent had the other real estate agent contact to advise the Seller had accepted another offer. The Respondent stated when the Complainant was contacted, the Complainants were very upset and threatened lawsuits. The Complainant's associate became very belligerent on the phone with Respondent's associate and called the real estate firm several times stating a lawsuit would be filed. The Complainant and the other parties had never submitted a written offer. The Respondent cannot submit a verbal offer on a foreclosure and the Respondent had previously indicated to the parties this was a foreclosure sale and were told this is very different type of sale and there are different processes that must be undertaken as opposed to a regular sale. The Respondent clearly indicated the bank sets the rules on a foreclosure. The Respondent stated the Complainant and the parties still submitted a written offer on Monday night through another agent at 9:45 pm, after having been told the Bank had already accepted another offer from another Buyer.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

21. 2020049531

Opened: 7/13/2020

First Licensed: 7/31/1985

Expires: 4/16/2021

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate firm.

The Complainant contacted the Respondent to place a formal offer on a property. The Complainant was on the call with two other individuals and asked the Respondent what the lowest offer would be for the Seller. The Respondent indicated a price and the Complainant submitted an offer for the property. The Respondent later told the Complainant the price would work, and it was the highest bid. The Respondent set up a time to meet the Complainant and sign papers for an offer. One of the other individuals on the call received a phone call from a different agent of the same brokerage firm in the late afternoon and stated it was not necessary for them to come into the office on Monday because the bank had already accepted another offer. The Complainant did not understand what had happened because the Respondent had indicated the offer being given by the Complainant was the highest offer, the bank was closed on Sunday and the property was a foreclosure. It did not seem possible for the bank to have accepted an offer in the time frame. The home had only been on the market for six (6) days. The Respondent stated the offer from the Complainant had not been submitted and refused to provide information about offer amount that was accepted by the Bank. The other party working with the Complainant was willing to make a full asking price offer on the property and was told by the Respondent the Bank would not accept

any other offers from them. The Complainant alleges the Respondent engaged in foul play and alleges the Respondent misused the real estate license by selling a property under the table.

The Respondent provided a response and stated when the Complainant contacted the Respondent, the Respondent indicated to the parties the Respondent did not know the lowest price the bank would accept for the property and just guessed the best price may be in the \$60K range because it was just placed on the market and it was a foreclosure. The Respondent was aware foreclosure asking prices did not come down very much in the first twenty (20) days and advised the Complainant there were already some offers submitted and there was one offer in negotiations. The Respondent told them to come to the office to submit an offer and the Respondent would wait for them if they wanted to come and submit an offer. The Respondent was very clear that the offer must be in writing and it would have to be submitted through the offer portal. The Respondent also advised the Complainant it would be necessary to submit a lender letter of proof of funds with the offer. One of the individuals on the call indicated to the Respondent due to a work schedule, the earliest the parties could come to meet the Respondent would be on Monday evening and the Respondent agreed to meet the parties. There was another real estate agent that would assist them on Monday and the Respondent had the other real estate agent contact to advise the Seller had accepted another offer. The Respondent stated when the Complainant was contacted, the Complainants were very upset and threatened lawsuits. The Complainant's associate became very belligerent on the phone with Respondent's associate and called the real estate firm several times stating a lawsuit would be filed. The Complainant and the other parties had never submitted a written offer. The Respondent cannot submit a verbal offer on a foreclosure and the Respondent had previously indicated to the parties this was a foreclosure sale and were told this is very different type of sale and there are different processes that must be undertaken as opposed to a regular sale. The Respondent clearly indicated the bank sets the rules on a foreclosure. The Respondent stated the Complainant and the parties still submitted a written offer on Monday night through another agent at 9:45 pm, after having been told the Bank had already accepted another offer from another Buyer.

The Respondent's Principal Broker also provided a response and corroborated the response of the agent. The Complainant was upset the property was sold to someone else and were not familiar with the online platform used for foreclosure properties by banks. A verbal offer will not be enough to hold a property for an individual(s) and the bank can accept a valid written offer from another party at any time.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

22. 2020046991

Opened: 7/6/2020

Unlicensed

History: None

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

conducting business in Tennessee.

The Complainant alleges the Respondent is performing real estate transactions in Tennessee without a license. The Complainant leased a property from the Respondent for one week during the week of June 6, 2020. The Complainant placed a deposit in the amount of \$3,775.60 with the Respondent and understood in the lease agreement there was a provision that provided for no refunds or rescheduling. Four days prior to the final payment and few weeks into the pandemic, the Complainant contacted the Respondent and discussed how the rentals were being handled. The Respondent indicated the Respondent was not issuing refunds but were allowing for rescheduling. The Respondent suggested the Complainant wait to reschedule and see if anything changed related to the pandemic. The Complainant did not receive a request from the Respondent to submit the remaining balance for the rental on April 6, 2020. The lease agreement indicated the request for final payment would be sent to the Complainant by e-mail. The Respondent did not contact the Complainant about the payment. The Complainant understood this omission to indicate the verbal agreement to wait a longer period before rescheduling was in effect with the Respondent and would allow the Complainant to still reschedule. On May 5, 2020, the Complainant contacted the Respondent and left a message to reschedule the week at the rental property. The Respondent returned the call and stated there was no problem rescheduling and would call back the Complainant. The Complainant sent an e-mail to the Respondent and asked if the Respondent obtained approval to reschedule the rental. The Respondent provided a response and stated the Respondent had not heard back from management and advised the state had reopened for business and preferred not to reschedule stays. The Complainant began to communicate with the owner of the rental and the owner refused to reschedule or refund. The owner later cancelled the reservation. The Respondent misrepresented the vacation could be rescheduled and resulted in the Complainant losing the rental week and the amount of \$3,775.60.

The Respondent provided a response and stated it is a short-term rental company and operates businesses in several states. The Respondent holds a business license and provided the proof of licensure. The Respondent usually does not allow for refunds or rescheduling but allowed for rescheduling due to the COVID-19 pandemic. The Complainant's home state lifted the stay at home order in May 2020 and this would have allowed the Complainant to travel and stay at the rental during the week in June 2020. The Respondent was willing to provide an accommodation to the Complainant and allowed the rescheduling until the stay at home order was lifted.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for unlicensed activity in the State of Tennessee pursuant to Tenn. Code Ann. § 62-13-104(b)(2) (Vacation Lodging Service).

Commission Decision: The Commission accepted counsel's recommendation.

23. 2020047571

Opened: 7/13/2020

First Licensed: 4/18/2005

Expires: 9/15/2020

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Principal Broker.

The Complainant states an offer was submitted on a property and the Respondent indicated the offer was accidentally deleted and the offer was not presented to the Seller. The Respondent requested a new offer be submitted, however, the Complainant's agent never heard back from the Respondent. The Complainant contacted the owner and the owner indicated the Respondent never provided the Sellers with the offer. The Sellers were unaware the Complainant was interested in purchasing the property.

The Respondent provided a response and stated the Complainants had submitted an offer from the Complainant's real estate agent and the offer was presented to the Sellers over the telephone because they were out-of-town and unable to come to the Respondent's office. The Sellers stated not to accept the offer right now because it was too low to pay off the current mortgage on the property. The Seller did not respond to the offer and the offer expired. The Respondent stated the Seller was not required to respond. During this time, the Respondent's daughter was in a bad accident and had to be life flighted to a hospital. The Respondent's real estate firm was instructed that all calls were to be referred to another real estate agent in the office. The Respondent was not aware the other real estate agent who had received a call from the Complainant's agent and when checking with the other agent, the real estate agent indicated there was no call from the Complainant's agent. Later, the Complainant's agent sent a second offer, the Respondent did not know the offer was sent to the Respondent's e-mail and believed it to be the original offer because it was identical, and the Seller had rejected the first offer verbally. The first offer had never been deleted and the Seller was presented the offer. The Complainant wrote a second offer in the same amount and with the same terms as the first offer which the Seller did not accept.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

24. 2020048011

Opened: 7/13/2020

First Licensed: 3/1/2017

Expires: 2/28/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent is the property manager for a property leased by the Complainant. The Respondent refused to allow an in-person walk-through with the Complainant when the Complainant was vacating the premises due to the COVID-19 pandemic precautions. The Complainant alleges the Respondent excessively charged the security deposit in the amount

of \$1,695 and failed to provide a detailed cost of all charges and itemize the charges. The Complainant attempted to dispute the charges and the Respondent would not return the phone calls and exhibited a lack of professionalism. The Complainant's lease agreement ended with the rental company and the Complainant was due back the security deposit. Upon finally receiving the move-out report, the report listed extensive damage and the Complainant stated this was incorrect. The Complainant has pictures showing how the home was left. The Respondent never came to the property and never discussed the move out. The Complainant had the home professional cleaned and later the Respondent charged the complainant to have the home professional cleaned again. The Complainant alleges the Respondent engaged in excessive charges and false reporting.

The Respondent provided a response and stated the Complainant entered into a lease agreement on December 27, 2017 and was the first tenant to occupy the property after it was purchased by the Respondent. Due to the COVID-19 pandemic, the Respondent was not conducting any in-person inspections when the Complainant moved out. On June 1, 2020, the property was inspected. Upon inspection, the Respondent found the Complainant failed to maintain the landscaping and it resulted in an \$80 chargeback to the Complainant. The Respondent provided photographs about the change in condition of the landscaping and the Complainant's failure to maintain the landscaping. Also, there was a charge for a smoke detector in the amount of \$54.40 and the Respondent had to pay for a professional cleaning service of the entire residence. The Complainant was only charged for half of the cleaning service fee. There were also broken wood blinds in one of the bedrooms. The Complainant was charged \$64.76 for the blinds to be replaced. The Complainant also had a pet living in the residence and there were pet stains on the carpeting. The Complainant was charged \$411.46 for the carpet replacement. The total amount of chargebacks to the Complainant was \$760. The Respondent provided several photographs evidencing the condition of the property and the damage.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

25. 2020048081

Opened: 7/13/2020

First Licensed: 2/23/2015

Expires: 2/22/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent Owner of a rental property had allowed the home to be rented in poor condition to the Complainant. The Complainant alleges the Respondent was hostile when the Complainant went to talk to the Respondent about the property. The Respondent had told the Complainant the home would be completely remodeled and there would be new plumbing, however, the plumbing was old and was still connected to an old septic tank.

The Respondent provided a response and stated his wife also owns the property and leases the

duplex to tenants. The Complainant's wife receives multiple texts per day from the Complainant with various complaints about the duplex and the neighbors also call and text the Complainant's wife complaining about the Complainant's behavior. When the property was rented to the Complainant, the Complainant visited both units during the renovation and had first choice of the unit the Complainant wanted to lease. Also, the Respondent had to get involved in an incident that had occurred with the duplex neighbor about over feeding a dog. As a result of this incident between the neighbors, the Complainant brandished a weapon to threaten to the neighbor. The Complainant has repeatedly declined to meet with the Respondent's wife to resolve any issues. Also, the Respondent's wife has offered to void the lease agreement and return the deposit, however, the Complainant wants to stay in the property. The duplex has had extensive remodeling and all work was properly inspected and approved by the city codes department. The plumbing has not been replaced, but it will be replaced and there are no problems with the current plumbing or septic system. The Complainant has been advised the lease would not be renewed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

26. 2020050271

Opened: 7/13/2020

First Licensed: 11/27/2017

Expires: 11/26/2021

Type of License: Affiliate Broker

History: None

An anonymous complaint was submitted against the Respondent. The Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent pays kickbacks to individuals that find Buyers for properties.

The Respondent provided a response and stated the allegations are untrue. The Respondent vehemently denies the allegation and is not engaged in providing any money to any individual that finds a Buyer for any property. The Respondent does not conduct business in this manner. The Respondent indicated this was an anonymous complaint and no details, evidence or proof was provided by the Complainant. There is nothing that even suggests the Respondent would be engaged in providing kickbacks to any individuals. Also, the Complainant does not even reference a specific transaction, date or incident

There was no proof or substantiation submitted with the complaint to support the allegations made against the Respondent. The Respondent does not have any complaints and no other individuals have made any similar allegations against this Respondent.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

27. 2020047161

Opened: 7/13/2020

First Licensed: 4/20/1999

Expires: 12/31/2020

Type of License: Time Share Registration

History: None

The Complainants are Louisiana residents and the Respondent is a Florida corporation and a licensed Tennessee Time Share Registrant.

The Complainants visited the timeshare property in Tennessee for an owner update meeting in July 2018. The Complainants purchased the timeshare property 18 years ago. The Complainants had some issues booking accommodations and believed the Respondent was providing substandard accommodations. The Complainants were familiar with the Respondent's time share meetings and stated the meetings were high-pressure sales pitches to upgrade timeshare memberships. The Complainants allege the Respondent told them they were having difficulty booking because it was necessary for the Complainants to upgrade from a one bedroom to a four-bedroom timeshare. This would provide more choices and options to the Complainants. The Complainants were told with the upgrade, the Complainants could exchange to any location without fees. The Complainants were also invited to apply for a credit card, and with the credit card, the Complainants could earn gift cards for payment towards various things related to the timeshare. After obtaining the credit card, the Complainant did not use the points within the specified period and points expired. The points with a value of \$500 was reduced to \$150. Also, after the Complaints had saved some weeks, the Complainants still were not able to obtain optimal accommodations, Complainants concerns were not given priority treatment, the maintenance fees increased, the credit card had a high interest rate, and there was no way to resell or rent the timeshare. The Complainants later realized this information provided to them was misleading or false and the Complainants believed the agents of the Respondent had scammed the Complainants. The Complainants have painful medical issues and it has prevented them from traveling. Also, the excessive cost of the timeshare does not allow them to use the timeshare. The Complainants allege the Respondent misled the Complainant to sign a contract for the purchase of a timeshare property and had a malicious intent. The Complainants request the contract be cancelled and refunded.

The Respondent provided a response and stated the Complainants have also filed this same complainant with the Florida Better Business Bureau. The Respondent provided all relevant documentation showing the Complainants were provided all relevant details concerning the upgrade of the timeshare property and the credit card. Also, the Complainants were informed about the rescission period and chose not to cancel the contract within the cancellation period. The Respondent complied with all legal duties and provided the proper disclosures to the Complainants.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

28. 2020043171

Opened: 7/20/2020

First Licensed: 4/2/2019

Expires: 4/1/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant rented a residential property from the Respondent. The Complainant made timely rental payments except for the April 2020 payment due to the COVID-19 pandemic. The Complainant's lease ended on April 30, 2020 and on May 1, 2020, the Complainant contacted the Respondent to obtain the security deposit for the property. The Respondent was supposed to get back to the Complainant and never contacted the Complainant. The Complainant stated there was damage to the home during the tenancy, however, it was not the fault of the Complainant. There were several HVAC maintenance issues with the property. The air conditioner did not work in the Summer and the heat did not work in the Winter. The HVAC caused water damage in the bedroom ceiling and buckets of water from the tray surrounding the HVAC unit had to be removed from the attic. The Complainant filed a maintenance request about the damage and the Respondent scheduled an appointment for repairs, but the Complainant had to cancel the appointment due to illness. The flooring in the kitchen was also peeling and cracking and there were many times when the Complainant tripped over the flooring. The Complainant never called back because the Complainant was busy and the water damage was simply unsightly, but not causing an actual problem. The Complainant indicated the Respondent should have rescheduled the appointment because the Respondent has a duty to maintain the property. The Complainant only used the dishwasher a handful of times during the tenancy and only realized towards the end of the tenancy the reason the floor was peeling was because of the leaking dishwasher. The Complainant also had several instances of vandalism and burglary during the tenancy period and it resulted in an unexpected cost to the Complainant. The Complainant's window had been shot out of the Complainant's car, the driver's side door handle had been broken by someone and both vehicles in the driveway had been broken into during the tenancy period. Also, a drill was stolen from the Complainant's boyfriend's work truck and there were several houses surrounding the Complainant's home that had tires that were slashed. The Complainant stated it was unsafe to live in the property and these incidents cost the Complainant money. The Complainant did ask the Respondent for a rent reduction and installation of cameras, however, the Respondent never responded to the request. The damage to the home was not the fault of the Complainant and the Complainant made the property manager aware of the problems. The Respondent has still not responded to the Complainant about the return of the security deposit monies and this request has also been ignored.

The Respondent provided a response and stated the move-out review was completed a later than usual due to the COVID-19 pandemic and the real estate firm had instituted certain social

distancing guidelines due to the pandemic. The Respondent stated the security deposit monies have been returned to the Complainant. The Respondent apologizes for the delay in contacting the Complainant and has contacted the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

29. 2020045541

Opened: 7/20/2020

First Licensed: 8/29/1994

Expires: 9/3/2022

Type of License: Real Estate Broker

History: None

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

The Complainant alleges the Respondent was the property manager for some properties. The Complainant was hired by the property owner to take over the management of the properties and to assist in resolving some issues with the Respondent concerning the management of three investment properties in Tennessee. The Complainant found the Respondent had failed to properly manage the properties and there was a pattern of serious neglect and bad faith by the Respondent. The Complainant's client has attempted to resolve the outstanding issues with the Respondent and contacted the Respondent over 20X, however, the Respondent would not respond. Also, the Complainant has discovered there were many invoices where the property owner was charged large amounts for repairs to the investment properties.

The Respondent provided a response and stated the Complainant does not have standing to file the complaint. The Complainant was never a client of the Respondent or the broker of the Respondent. The Respondent stated the property owner was never harmed in any way and the Complainant failed to get the permission of the property owner to file the complaint for the subject property.

The Respondent stated the Respondent's property management firm was closing and the property owner had to obtain a new property manager. The property owner was not dissatisfied with the services of the Respondent. The repair bills for the unit in question were for a duplex and there was a serious amount of damage done by a former tenant and the tenant's dog. The pictures were sent to the property owner and once the tenant moved out of the property, the repairs were begun and were completed. The property owner was informed about the completion of all the repairs. There was no work completed over \$500 without the consent of the owner. The owner approved all repairs on the property and there was no fraudulent billing for repairs being done by the Respondent as referred to the Complainant. The property owner did not contact the Respondent 20X. The property owner had the business phone numbers of the Respondent and the personal cell phone number to contact the Respondent. The property owner has never indicated the inability to contact the Respondent. The Respondent spoke to the property owner after the complaint was

filed and stated the property owner was unaware a complaint was filed concerning his property and told the Respondent there were no issues with the Respondent and all matters were resolved.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

30. 2020047461

Opened: 7/20/2020

First Licensed: 11/2/1988

Expires: 8/7/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant made an offer on a single-family home in Tennessee and the Respondent was representing the Sellers in the transaction. The initial offer was made on May 27, 2020 and there were several counteroffers over the course of the next couple of days. The last counteroffer submitted by the Complainants was made on May 31, 2020 which was at the Seller's requested price, previously agreed amount of earnest money and the sale was contingent upon the sale of the Complainant's home by July 31, 2020. The Complainant was advised later the same day the Sellers were having concerns about the earnest money and the contingency. The Respondent stated it was being worked on and four hours later, the Complainant was advised a new buyer had made a cash offer with no contingencies and the Sellers would be accepting the offer. The Complainant was stunned and blindsided. The Complainant's agent was also surprised and upset the Complainant had not been given a chance to make a "best and final" offer. The Respondent apologized to the Complainant's agent and then texted to say the Respondent would not making any commission. On June 18, 2020, the Complainant learned the cash buyer of the home was the Respondent's son. As the Seller's realtor, the Respondent was privy to all offer details and contingencies and could easily have advised her son to make the "perfect offer" to make sure the offer was accepted by the Sellers. The home had been on the market since January 2020 and the Respondent's son had not made any previous offers or shown an interest in the property until the Complainant's counteroffer was almost accepted.

The Respondent provided a response and stated the Respondent has been a real estate agent for over 30 years and never had a complaint. The Respondent has had a long-term professional relationship with the Sellers and helped to sell the Sellers' mother's home the previous year. The Respondent's son and wife lived in the neighborhood and had looked at this home several times. The Respondent's son decided against purchased the home because of the price. The Sellers listed the home with the Respondent after they were unsuccessful in privately selling the home. The Respondent signed a four-month listing agreement with the Sellers. The home was placed on the market for about three weeks before the COVID-19 pandemic began to hit Tennessee. The home was listed for \$1.5 million. As a result of the pandemic, home sales slowed in the area and the Sellers decided to lower the price of the home to \$1,475,000. This still did not generate any offers.

Since the listing agreement was going to expire on May 17, 2020, the Sellers were concerned about extending the listing agreement and racking up additional days on the market. They did not want to continue to list the home. The Sellers also thought their brother might be interested in the home and did not want to relist the home with the Respondent any longer. The Respondent stated in May 2020, the Complainant made an offer of \$1,250,000 with \$10,000 earnest money with contingency of selling their home and the Sellers counter offered. There were several offers exchanged in small increments, and later the Sellers countered with the offer of \$1,400,000 to which the Complainants countered with \$1,305,000 with the contingency of the sale of their home. Also, there was an additional condition for the Sellers not to show or market the home until the end of June. The Sellers found this unreasonable. At this time, the Respondent's son had a change in financial outlook and decided to again pursue the purchase of the home. As a physician, the Respondent's son felt better about his financial prospects and also due to a decline in the mortgage rates, the Respondent's son decided it was a better time to purchase the home. Also, the Respondent's son noticed the price had been lowered before it had been taken off the market. Since the Respondent's son had already seen the home and was not represented by the Respondent, the Respondent's son called the Sellers directly and inquired with the Sellers to purchase the home. The Respondent was not involved in the transaction and never received a commission or any other financial gain from the transaction. If the Complainants transaction had been completed, the Respondent would have made a commission and it was in the best interest of the Respondent for the Complainants' transaction to be completed. The Sellers never engaged or countered the Complainants' last offer of \$1,305,000 and the counteroffer expired. Following the expiration of the counteroffer, the Respondent had told the Complainants' agent another buyer had emerged and made a higher offer. The Respondent did not disclose the identity of the other buyer. The Buyer who ultimately purchased the home was related to the Respondent, however, the Buyer made an offer after the Complainants' counteroffer was not accepted and had expired. The Respondent did nothing to undercut the Complainants from the purchase of the home.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

31. 2020049351

Opened: 7/20/2020

First Licensed: 3/4/2020

Expires: 3/3/2022

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant stated the Respondent advertised a home on Facebook™ which had been listed with another real estate broker. The Respondent also failed to mention any firm name or phone number.

The Respondent provided a response and stated this home was a "flip" house and an investment

property of a friend. The friend wanted to do a “For Sale By Owner” and did not want to list with an agent. However, the friend did use an MLS service to list the property. The Respondent was unaware the friend had decided to list it with an MLS service. The Respondent is currently a VP of Business Development for a school-based telemedicine company and has wanted to be involved in real estate for a long time. The Respondent just obtained an affiliate broker license in March 2020. A week after joining a real estate firm, the COVID pandemic began and the Respondent was not able to take any additional NETAR training or MLS training. The Respondent has since been able to take the Code of Ethics class and the NETAR new realtor orientation on July 6, 2020 through Zoom. The Respondent was apologetic about the incident and stated this matter was a huge misunderstanding. The friend had offered the Respondent a two to three percent commission to begin promoting the home. The Respondent took a few pictures and a video to share with friends and other agents. The Respondent was aware there were not many buyers because of the pandemic and thought marketing on Facebook™ would be helpful and there would be interest in the home. Before making the post, the Respondent did check on MLS on June 9, 2020 to make sure that house did not have an active listing and the Respondent placed a one-time post on Facebook™ on June 26, 2020. Shortly thereafter, the Respondent learned a complaint had been filed. The friend asking for help to market the home wrote a letter of explanation on behalf of the Respondent and stated the Respondent did not do anything wrong or improper and it was not the fault of the Respondent. The Respondent had permission to market the home on Facebook.™ The Respondent apologizes for the misunderstanding and did not act as the listing agent for the property.

Recommendation: Letter of warning concerning possible misconduct and advertising violations pursuant to the Tennessee Real Estate Broker License Act of 1973.

Commission Decision: The Commission accepted counsel’s recommendation.

32. 2020050351

Opened: 7/20/2020

First Licensed: 11/23/2015

Expires: 11/22/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent uses drugs and gave the Complainant the code to the lockbox to enter the home to view the home without the Respondent.

The Respondent provided a response and stated this complaint is a retaliatory complaint by the Complainant and based on vindictive and spiteful nature of the Complainant. The Respondent and Complainant were involved in a romantic relationship. A complaint was previously filed by this Complainant wherein the Complainant alleged sexual harassment. The Complainant withdrew the complaint and there was no finding of wrongdoing by the Respondent. On June 16, 2020, the

Respondent and the Complainant were both drunk and had an argument and decided not to date each other anymore. As a result, the Complainant has attempted to retaliate by filing false complaints against the Respondent. The Respondent denies the use of drugs. The Respondent has used marijuana recreationally from time to time at night or on the weekends. The Respondent never smokes marijuana during the daytime hours. The Respondent is involved in a sign courier business and installs and remove signs for Realtors® which keeps the Respondent on the road most afternoons. The Respondent does not drive and smoke marijuana. The Respondent provided various personal text messages, pictures and dialogue between the Complainant and the Respondent.

The Respondent met the Complainant through Facebook™ dating site in February 2020. The Complainant was aware the Respondent was involved in real estate and was interested in buying a home. When the Complainant's parents came to visit, her then real estate agent had not put any homes together for her parents to see, so the Respondent assisted the Complainant and spent the day with the Complainant and her parents to show them several homes. The Complainant later came to the Respondent's office and signed a Buyer's Agreement on March 10, 2020. The Complainant and Respondent started dating. The Respondent admits it was not professional to have a relationship with a client and the Complainant assured the Respondent there would be no issues because the two met first and had a romantic relationship before having a business relationship. Shortly thereafter, the Complainant and the Respondent began to have arguments. As a result, the Respondent released the Complainant from the Buyer's Agreement. Later, the Complainant and the Respondent began to work together again on the purchase of a home for the Complainant. After the COVID-19 pandemic began, the Complainant would get upset because the Respondent would not come to visit her. The Respondent was quarantining and could not visit the Complainant. During this time, the Complainant had to begin to choose finishes. The Respondent allowed the Complainant access to the lockbox code to look at finishes in the unit without the Respondent being present. The Respondent acknowledges he should not have been romantically involved with a client and should never have given the lockbox code to the Complainant without being present for the viewing of the unit.

Recommendation: Authorize a formal hearing and assess civil penalties in the amount of \$2,000 for failing to diligently exercise reasonable skill and care pursuant to Tenn. Code Ann. § 62-13-403(1) and Tenn. Code Ann. § 62-13-312(20) (any conduct that constitutes improper, fraudulent or dishonest dealing) the Tennessee Real Estate Broker License Act of 1973.

Commission Decision: The Commission accepted counsel's recommendation.

33. 2020051191

Opened: 7/20/2020

First Licensed: 4/7/2008

Expires: 4/18/2021

Type of License: Principal Broker

History: None

Complainant is a Georgia resident and the Respondent is a Tennessee Principal Broker.

The Complainant made an offer on a parcel of land and the Seller counter offered on June 16, 2020 with an expiration of June 19, 2020. The Complainant never received notification the counteroffer had been withdrawn. On June 16, 2020, the Complainant countered and on July 8, 2020, found the parcel was listed again for sale with a listing date of June 15, 2020.

The Respondent provided a response and stated the offer was made on May 30, 2020 for 176 acres. The Respondent had advised the Complainant, the Seller of the property was an elderly lady and has no e-mail or faxing capabilities and all correspondence had to be sent via USPS and there had to be time limits incorporated into all transaction documents to allow for the mailing of documents. On June 1, 2020, the Seller was advised of the offer and on June 2, 2020, the offer was mailed via USPS to the Seller. On June 5, 2020, the Respondent was contacted by the Seller to further discuss the offer and make a counteroffer. The Respondent did not receive the signed listing agreement from the Seller and the Seller had stated all the documents would be sent together. On June 6, 2020, the Respondent mailed the counteroffer with the necessary instructions. On June 11, 2020, the Respondent's office manager had a conversation with the Seller's sister explaining which copies needed to be returned. The Respondent received the signed documents for the listing, original offer, and counteroffer on June 15, 2020. The Seller signed and dated the documents May 2020 instead of June 2020. The counteroffer was presented to the Buyers on June 16, 2020. The Complainants did not accept the counteroffer and made a counteroffer. As a result of the delay and lag time in getting the documents to the Seller and the execution of the documents, the Respondent extended out the expiration date of the counteroffer to July 13, 2020. During this time, the Seller was staying with her son due to illness and it was difficult for the Respondent to contact the Seller. On June 27, 2020, the Seller was rushed to the hospital, however, the Seller's sister confirmed the counteroffer had been received in the mail. During this time, the Respondent kept in touch with the Complainants. The Respondent tried reaching the Seller before leaving for vacation and was unable to reach the Seller. The Respondent advised the Complainant of the situation. The Respondent was under the impression the Seller was still in the hospital because the Respondent had not heard from the Seller. On July 6, 2020, the Complainant became upset and told the Respondent to go to Florida and get the counteroffer signed by the Seller. The Complainant again contacted the Respondent and accused the Respondent of relisting the property. The Respondent did not mark any of the listings as pending until the Respondent had a binding contract. On July 10, 2020, the Seller's sister contacted the Respondent and advised the Seller was still in the hospital and had to have a major surgery due to gangrene and was still very ill. The Seller's sister has not been able to see or visit the Seller in the hospital because of the COVID-19 pandemic. There was no binding contract on the parcel of land. On July 13, 2020 there was not a signed counteroffer by the Seller by the close of business. A refund of the earnest money of \$5,000 was issued to the Complainant and it was mailed out July 13, 2020. The Respondent has indicated the Complainant has been very difficult and has come to the Respondent's office and yelled and screamed at the Respondent. The Respondent has repeatedly explained there is nothing that could be done until the Respondent had a binding contract.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

34. 2020051321

Opened: 7/20/2020

First Licensed: 3/2/2006

Expires: 3/1/2022

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant listed a home for sale. There were over 30 showings in a two-week period, and it was challenging due the COVID-19 pandemic. On July 8, 2020, the Respondent showed the Complainant's home to some potential buyers. This home had four doors to the outside of the home and when the Complainant returned to the home at 2 pm after the showing, all four doors were left unlocked and the back door, garage entry and master bedroom back doors were left wide open and all ajar. As a result, the air conditioning was running high. At first, the Complainant thought it may be necessary to call the police because there may have been a break-in after the showing. The Complainant went through the entire home and no one was inside the home and no items were missing from the home. The front door key was in the electronic lockbox. The Complainant alleges the Respondent failed to make sure the home was secure prior to departing from the home and made no attempt to lock the front door. The Complainant contacted the brokerage firm and the firm was not very concerned and apologized for the incident.

The Respondent provided a response and stated the home was shown to potential buyers and the Respondent and the Respondent's clients were respectful of the owners of the home and wore a mask and gloves, as requested by the owners. The Respondent did not stay longer than necessary in the home. The Respondent does not recall any of the doors being left open and checked with the clients to see if they may have left any doors open. The Respondent stated the doors were closed if they were opened. The Respondent was apologetic and stated it should not have happened. The Respondent acknowledges she did not double-check the doors. The Respondent remembers locking the front door upon departure.

Recommendation: Authorize a formal hearing and civil penalty for \$1,000 for failure to exercise reasonable skill and care pursuant to Tenn. Code Ann. § 62-13-403(1).

Commission Decision: The Commission accepted counsel's recommendation.

35. 2020045091

Opened: 6/29/2020

First Licensed: 4/21/2010

Expires: 4/20/2022

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and Seller of real estate and the Respondent is a licensed Tennessee Affiliate Broker.

In May 2020, the Complainant entered into a listing agreement with the Respondent and the Respondent agreed to list the property for a price without viewing the property. The Complainant also informed the Respondent about concerns of the COVID-19 pandemic and showing the home when the Complainant's children and elderly mother were at home. The Complainant's mother also had an underlying heart condition. The Respondent assured the Complainant there would be no issue and strict guidelines would be followed. The Complainant wanted to limit the showings to weekends and conduct virtual showings. The Respondent refused to only allow showings on weekends. The Complainant alleges the Respondent came to the Complainant's home without a mask or protective gear and brought a painter/contractor into the home without a mask or protective gear. The Complainant felt violated and believes the Respondent is not treating the Complainant fairly. The Respondent again came to the Complainant's home on another occasion with the Complainant's ex-wife and without the permission or knowledge of the Complainant. The Complainant's soon-to-be ex-wife allowed a showing when the Complainant's babysitter and children were in the home and the Respondent asked the Complainant's babysitter and children to leave the home without the approval of the Complainant. The Complainant again told the Respondent in writing all showings should only be conducted on the weekends. The Respondent again confirmed a showing during the week. The Respondent told the Complainant, the Respondent would take the Complainant to court to force the showings. There were several more incidents of showings being done without the permission of the Complainant.

When an offer was made on the property, the Complainant alleges the Respondent changed the terms of the offer to reduce the price by \$10K and offered \$10,000 in closing costs. This was not authorized by the Complainant. The Complainant later received an e-mail from the Respondent with a signed offer that was returned to Buyers without the Complainant's authorization. The Respondent sent an unauthorized offer to the Buyers and got the Buyers to agree to the offer. This was done in collaboration with the Complainant's soon-to-be ex-wife and attorney. The Complainant's soon-to-be ex-wife took the Complainant to court to force the Complainant to sign the unauthorized counteroffer. The Complainant alleges the Respondent engaged in fraud and deception.

The Respondent provided a response and stated the sale of this real property was court-ordered and the Respondent had to communicate with each of the parties' respective attorneys. The appointment showing desk was instructed to tell all agents to request a showing to follow the COVID-19 protocol for showings. The language in the Multiple Listing Service clearly stated showings should follow all COVID-19 safety precautions. All listing agents were contacted and told the Seller is very concerned about COVID-19 and were specifically told not to allow anyone on the property without gloves and masks. Also, booties were to be worn. The Respondent was aware that showings were preferred on the weekends and the Respondent explained to the Complainant there may be an out-of-town buyer that may not be able to show on the weekend and to try and be flexible when needed because sometimes agents do not have control over showing a home only the weekends. The Respondent admits to coming to the home with painter because there were several complaints about a stain on the ceiling and tattered storage door in the garage.

The Respondent notified the Complainant about the painter coming to the home and the Respondent apologized for entering the home without a mask. The Respondent forgot the mask that day and had to enter the home without a mask. The Complainant's soon-to-be ex-wife was a co-owner of the property and the Respondent did confirm the showing with the soon-to-be ex-wife. The Respondent did ask the babysitter and the children to wait outside for a few minutes during the showing. They were not asked to leave the premises. The Complainant was continuously agitated with the Respondent and often raised his voice and swore at the Respondent. The Respondent attempted to confirm all showings with the Complainant, however, there were several occasions when the Complainant would not respond, and the appointment desk would contact the soon-to-be ex-wife to confirm the showing. The Respondent did not threaten to take the Complainant to court and force the showings. The Respondent was never involved in any court proceedings. The attorneys for the ex-wife raised these issues with the Court concerning the sale of real property. In fact, the Court had to issue an Order in May 2020 to make sure the Complainant did not thwart the sale of the real property or limit the showings of the property. The Respondent insists all COVID-19 precautions were taken when entering the home. The Complainant's soon-to-be ex-wife also had the authority to approve showings and was contacted to arrange for the showings. It was not necessary to obtain the approval of the Complainant for every showing of the home. Also, the Complainant's actions surrounding the sale of the property resulted in the attorneys for the soon-to-be ex-wife obtaining an Emergency Motion to Force the Sale of the Home and the motion was granted by the Court.

The Respondent's acts and conduct do not indicate any violations of the laws and rules of the Tennessee Real Estate Broker License Act of 1973.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

36. 2020044551

Opened: 7/13/2020

First Licensed: 6/15/2015

Expires: 4/29/2021

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Principal Broker.

The Complainant purchased two homes with the help of the Respondent. Both homes were purchased "AS IS." One of the homes had a tenant living on the premises and the tenant requested no entry unless the tenant was present. In fact, this was untrue and the tenant later told the Complainant, the former owner had told the tenant not to speak to the Complainant. The Complainant alleges the Respondent and the former owner were friends and conspired to keep the Complainant and the tenant apart by lying them. The owner and the Respondent knew there were several issues with the home and did not want to disclose those issues as required by law. The

tenant had been asking the previous owner to fix the problems with the home, but the repairs were never completed. The Seller of the home did not disclose any problems with the home. If the Complainant had known about the issues with the home, the Complainant would not have purchased the home. Later, the Complainant has recently decided to sell one of the homes as a "For Sale by Owner" property. The Respondent contacted the Complainant and asked what the Complainant would give to the Respondent if the Respondent brought a buyer to the Complainant. The Complainant told the Respondent, there were several buyers interested in the property and the Complainant did not need assistance of the Respondent. During the phone call, the Complainant began having a coughing fit and asked the Respondent to hold on before returning to the phone call. The Respondent then told the Complainant in a rude tone "Look, genius, I did not ask you to list with me, I told you I would bring you a buyer." The Complainant stated the Respondent then told the Complainant "[y]ou deserve to choke on whatever it was that you were just choking on and I hope it gets you."

The Complainant's wife also provided a response and stated the Respondent was rude and solicited money from the Complainant in order to bring a Buyer to the Complainant for the property listed for sale. The original process of purchasing the home with the assistance of the Respondent was very difficult because the Respondent refused to use any e-signature documents to consummate the sale of the properties. Also, the Respondent did indicate the Respondent was a close friend of the former sellers of the property and the Complainants were interested in purchasing both properties together because they were adjoining properties. Both the Respondent and the former owner of the property indicated to the Complainants a tenant resided in one of the homes was very unstable and the Complainants should wait to speak to the tenant because the tenant may react in a violent manner once it is disclosed the Complainants purchased the property. This was untrue and the tenant was not mentally unstable and did not have any violent tendencies. The Complainant did meet the tenant and discovered both the Respondent and the former owner had told the Complainants many lies concerning the tenant and failed to disclose the need for repairs to the property prior to the sale of the property to the Complainants. The Respondent was aggressive and rude. Also, the Complainants found there were multiple issues with the portion of the home being occupied by the tenant and these were undisclosed. There were serious roof leaks, plumbing leaks, and the house routinely flooded through the back door due to heavy rains. The prior owners never addressed any of these concerns and would just lower the monthly rent payment when there was an incident. The Complainant stated the Respondent has attempted to defame and made personal verbal attacks on the Complainant.

The Respondent provided a response and stated the Complainant is a licensed Tennessee Affiliate Broker and was rude, arrogant and condescending to the Respondent throughout the original transaction. The Respondent had never wished ill on the Complainant and there was no dishonesty involved in the original sale of the property and all disclosures were properly made. The original Sellers never resided in either of the homes and the husband maintained the properties. There were no misrepresentations made by the Seller in the original purchase by the Complainant. The Respondent never called the Complainant any names, made any verbal attacks or wish the Complainant any ill will. The Respondent stated the Complainant was very difficult to deal with and was very rude during the entire process of the original sale of the property.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

37. 2020046681

Opened: 7/13/2020

First Licensed: 8/25/2004

Expires: 3/19/2022

Type of License: Real Estate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate Broker.

The Complainant alleges the Respondent does not have any address of the brokerage firm displayed on the website.

The Respondent failed to provide a response and failed to include the address on the website.

Recommendation: Authorize formal hearing and assess a civil penalty in the amount of \$1,000 for failure to respond to Tennessee Real Estate Commission pursuant to Tenn. Code Ann. §62-13-313(2)

Commission Decision: The Commission accepted counsel's recommendation.

38. 2020046381

Opened: 7/13/2020

First Licensed: 2/27/2004

Expires: 5/1/2021

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate firm.

The Complainant was in the process of entering into a contract to purchase a property and a preapproval letter was submitted with the contract, however, the Complainant never obtained a preapproval letter. Also, the Respondent sold the Complainant's home and guaranteed the Complainant would have a new home and told the Complainant there would be no issue concerning the Complainant's finances, even though the Respondent was aware the Complainant's finances were insufficient for the purchase of a home. When the Complainant began the process to make an offer on a home, the Respondent advised that the offer would require a \$2,000 earnest money deposit, which was nonrefundable. The Complainant stated the Respondent advised the money would be obtained from a friend of the Respondent's agent and would be wired to the Seller's agent and the Complainant could later pay back the friend by obtaining a \$2,000 money order. In the interim, the Respondent's agent would send the money to the title company. The Complainant

asked the Respondent's agent for the Seller's agent information and the Respondent's agent refused to provide it to the Complainant. The Complainant alleges the Respondent lied to the Complainant on multiple occasions. The Complainant should never have had a preapproval letter for the sale because the Complainant was not preapproved and now the Complainant is homeless. The Complainant alleges the Respondent engaged in mortgage fraud.

The Respondent provided a response and provided a copy of the lender preapproval letter from the Lender. The letter was submitted with the offer. The Complainant was qualified at the time of the offer; however, the Complainant was subject to the normal underwriting process. There were some prequalification stipulations the Lender required from the Complainant. After the COVID-19 pandemic began, the lender changed their lending guidelines and the Complainant no longer qualified for the loan, which required the Complainant to apply with another lender. At no time was there any fraudulent activity or a fraudulent letter. The Complainant went through several offers/contracts for the purchase of the home owned by the Complainant. Two contracts fell through and the third contract offer was accepted by the Complainant. There was nothing that indicated the home would not close. However, the appraisal was never ordered by the Lender and it appeared the loan was not be processed. The closing was approaching on the home being purchased and the existing home owned by the Complainant also needed to close before the Complainant could close on the property being purchased. The Buyer's agent on the home owned by the Complainant and indicated that since the lender changed the lending guidelines, the Buyer had to do some credit repair to increase their scores so the loan would be closed. This would require extra time and it would result in the Complainant missing the closing date of the property being purchased. The Seller of the home agreed to provide extra time to the Complainant and extended the purchase contract and three weeks later there was still no communication from the Lender. The Complainant was advised to cancel the contract for the sale of the home and put it back on the market, however, the Complainant declined. There was a definite sense the Complainant would not be able to purchase the home and the Respondent tried to assure the Complainant the Respondent would work to help the Complainant find another home. The Respondent never provided any firm assurances or guarantees on finding another home or advising the Complainant the Respondent would help to put an offer on a home. The Complainant indicated to the Respondent; the Complainant would have to live with the Complainants' boyfriend's parents. The Respondent's principal broker was close friends with the Complainants' boyfriend's parents and knew them well and had been friends and were in contact with each other since grade school. This was also one of the reasons the Respondent and the Respondent's agent were committed to finding a home for the Complainant. Later, a cash offer was made for the Complainant's property and since the previous offer had just expired, the Complainant decided to accept the cash offer and closed on the property one week later. During this time, the prequalification of the Complainant by the lender had been terminated and the Complainant had changed lenders. The Complainant did not have the necessary credit score to be approved and the Complainant began to use a credit repair service to assist in obtaining a higher credit score. The Complainant was not able to meet the deadline of the rescoring process and was not able to close on the property. The Seller also had asked for an additional \$2,000 in earnest money to extend the deadline even further which would have been non-refundable, and the Complainant refused to pay these additional amounts. The Respondent's principal broker did offer to assist the Complainant because of the close personal relationship the Respondent's principal broker had with the Complainants' boyfriend's parents and because it was a lifelong friendship. The Respondent's

principal broker was trying to help the Complainant. The Respondent did not stop to think about the possible ethical issues. The Respondent's principal broker later realized this was improper and could not be done and the Respondent retracted the offer. The Respondent's agent did call the listing agent and offered to give up 1% of the commission to make up for the demand of the additional non-refundable trust money and the seller accepted the offer. The Respondent resigned and released the firm as the broker due to this incident. The Respondent has not gone against any rules or regulations previously and has no prior violations. The Complainant always had the Sellers' agent's information and it was readily available on all the documents provided to the Complainant. In fact, the Sellers' agent's info was on the sign posted in front of the home being purchased by the Complainant.

Recommendation: Authorize a formal hearing and assess a civil penalty for \$1,000 for the following violations: failing to diligently exercise reasonable skill and care in providing services pursuant to 62-13-403(1).

Commission Decision: The Commission accepted counsel's recommendation.

39. 2020052261

Opened: 7/20/2020

First Licensed:12/19/2017

Expires: 12/18/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee affiliate broker.

The Complainant alleges the Respondent posted on a Facebook™ page a contract assignment on July 13, 2020 for a property that was available for purchase. The MLS indicated the property was listed at a higher sale price. The Complainant contacted the Respondent concerning the listing and found the Respondent had made a cash offer to the Seller that was accepted and was trying to assign the purchase contract to another buyer.

The Respondent provided a response and stated the Seller, a client, resided at the property and was moving to Arizona by November 2020. The Respondent's Seller wanted to list the house for sale. The Respondent obtained a cash offer. The Respondent moved forward with listing the property and the Seller's builder called from Arizona to find out if the Seller wanted to secure a new construction home in Arizona and the Seller needed to sell the home within 14 days. The Seller accepted the Respondent's offer and the same day the property was listed. After the contract was finalized, the assignment was placed. The Respondent had a controlling interest in the property and had every right to post the property and this was not an assignment of a purchase contract.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

40. 2020053011

Opened: 7/20/2020

First Licensed: 6/10/2014

Expires: 6/9/2022

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker residing in Mississippi.

The Complainant alleges the Respondent resides in an area where the Complainant owns a lake home and is also a real estate agent. The Complainant's lake house has been on the market for sale and the Complainant entered into a contract for the sale of the property. The Respondent has been harassing the Complainant's agent for additional information concerning the purchase contract. The land survey indicates that the Complainant owns quite a bit of the land the neighbor had claimed. The neighbor had poured a concrete slab and planted a flower bed. The Respondent is good friends with the neighbor and contacted the neighbor to learn about the details of the survey. The listing agents have been receiving phone calls from the Respondent, who is asking for information on the sale and is demanding the listing agent meet them at the Complainant's home to discuss the property issue.

The Respondent provided a response and stated the Respondent has been on the Homeowner's Association Board since the community was formed and it is a gated community with 28 lots and 18 completed homes. The property in question is one of the original four homes constructed by the Developer. The neighbor in question has owned the property for 24 years and was not the owner that placed the concrete slab on the property. When the neighbor's wife passed away, the Respondent was assisting the neighbor sort out various affairs only as a concerned friend and not as a realtor. The Respondent had no interest in interfering with the sale of the property by the Complainant. The neighbor wants to settle the question of the area concerning his driveway, otherwise the neighbor will have restricted access to his driveway. The Respondent was merely trying to get the parties to meet and resolve the issue. The Respondent was apologetic and acting only as a friend, neighbor and HOA board member for both parties.

On further review, the property in question owned by the Complainant is in Mississippi and the Respondent is Mississippi resident who has Tennessee Real Estate broker license. While the Commission has jurisdiction over the licensee, the sale of the property is taking place in Mississippi and unrelated to the conduct of real estate business in the State of Tennessee.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2020050341

Opened: 7/20/2020

First Licensed: 9/12/2016

Expires: 9/11/2020

Type of License: Real Estate Firm

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate firm.

On August 1, 2019, the Complainant applied for the rental of a home on the Respondent's website and was preapproved by the Respondent. The Complainant was advised a deposit in the amount of \$650 was required by the Respondent. The Complainant only had \$250 and could pay the balance later. The Respondent agreed to these terms and accepted the \$250 and later waited on the inspection with MHA. Unfortunately, the home did not pass inspection and the Complainant had to cancel the application for rental. MHA stated it did not conduct an inspection because no one was at the home when they arrived to conduct the inspection. The Complainant alleges the Respondent has done this to other individuals that have applied for a rental home with the Respondent. The Complainant alleges the Respondent is scamming other people and forcing them to cancel so they forfeit the deposit funds.

The Respondent provided a response and stated on August 13, 2019, the Complainant came to the Respondent for an immediate housing placement with a housing voucher. The application was submitted for processing on August 14, 2019. After viewing a home, the Complainant was instructed to bring \$250 and the application fee of \$40 to the Respondent's office to begin processing the Complainant's application for approval. On August 15, 2019, the Complainant did as directed and the home was taken off the market. The property in question is a property leased by the Respondent from an owner/investment company. All applicable fees are retained by the Respondent and forwarded to the owner/investment company. On August 15, 2019, the Complainant was advised the full security deposit would have to be submitted before the move-in date. The Complainant indicated the funds would not be available until the monthly SSI check was received. The Respondent referred the Complainant to one of the affiliate assistance agencies and found out that Agape would assist the Complainant with the remaining balance of the security deposit. In order to process the application, the Agape office would need the necessary documentation of the actual amounts due for the rental. On August 15, 2019, the Respondent advised the Complainant about the holding fee agreement and reviewed the lease with the Complainant. The Complainant understood the terms and signed the documents and those were submitted to Agape. The Respondent submitted the housing voucher. On August 19, 2019, the Respondent advised the owner/investment company of the items needed to address the Section 8 inspection. The MHA inspector met with the Respondent and stated the home would fail because the grass needed to be cut, exterior bricks were missing from the foundation and driveway needed to be filled due to a minor hole. The Respondent immediately notified the owner/investment company and this work was to be completed. This was communicated to the Complainant. The Respondent was off on the day after and the Complainant continued to call the Respondent on the Respondent's personal cell phone and was upset because the home had failed the MHA inspection. The Complainant insisted on a cancellation verbally and by text message. This was immediately transmitted to the owner/investment company and to Agape. A day later, the Complainant wanted to reconsider, and the Respondent advised the Complainant the cancellation had already been initiated. The Complainant continued to harass the Respondent and the Respondent's offices,

stalked the teams on social media and harassed the Respondent's firm by telephone and text messages to the point where the Respondent's legal representatives advised to bar the Complainant from the premises and block all calls and texts. On September 9, 2019, the Complainant came to the office and after being advised to leave the premises, the Complainant became extremely outraged and would not calm down. The police were called, and the Complainant was advised to leave the premises by the police. The owner/investment firm elected not to return the non-refundable \$250 holding fee. Also, the Complainant left a negative and inaccurate review on the Respondent's Facebook™ page. The Respondent provided proof of all documentation concerning the transaction, text messages and other corroborating information.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2020050361

Opened: 7/20/2020

First Licensed: 4/6/2018

Expires: 4/5/2022

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Real Estate firm.

The Complainant alleges the Respondent's leasing specialist e-mailed the Complainant with lease renewal options. The Complainant's lease was ending on May 27, 2020 with options to rescind notice to vacate at any time as stated in the lease. On May 4, 2020, the Complainant advised the Respondent's leasing specialist about rescinding the notice to vacate and to extend the lease by one month. The Respondent's leasing specialist responded on May 4, 2020 with additional details and asked what option the Complainant wanted to choose. The Complainant responded on the same day. The Respondent never responded to the Complainant and the Complainant began to become concerned and contacted the leasing specialist by telephone and left several voicemails. After multiple voicemails and e-mails, another leasing specialist responded and confirmed the lease could be extended on May 13, 2020. On May 21, 2020, the original leasing specialist sent the Complainant an e-mail and stated the Complainant was scheduled to move out on May 27, 2020. The Complainant again began to make multiple calls to the leasing specialist and sent several e-mails and on May 26, 2020, another leasing specialist finally spoke to the Complainant and stated there was nothing that could be done and hung up the telephone on the Complainant. The Complainant called back and asked to speak to a supervisor or manager and the leasing agent that answered the telephone also hung up. The Complainant only had 40 hours to move out of the home. On May 27, 2020, the Complainant moved out of the home and were charged for the 4 days left in May. There was still no response from the original leasing agent or the other leasing agent. The Respondent also demanded an outrageous move-out checklist which included: power washing the exterior of the house, driveway and porches; freshen the landscape, including re-mulching the front yard, professionally clean the interior carpets and floors and provide a receipt, repaint the entire interior.

The Respondent provided a response and stated a definitive answer was never provided to the Complainant on the lease extension request. However, upon review of all the documents of the Respondent, there was no written record of the one-month lease extension and the Respondent managers were unable to confirm whether this was communicated verbally to the leasing specialists. The Respondent was aware the Complainant was in contact with several leasing team members and it appears the Complainant was not getting a timely and proper response. It is clear this was bounced between several leasing team members because of the COVID-19 pandemic and it has been challenging for many of the leasing team members. The Respondent stated the four days were credited back to the Complainant for the end of the month and this was done when the deposit accounting for the unit was completed. The move-out checklist are suggestions for the resident to evaluate prior to moving out of a unit. The Respondent did not charge the Complainant for power washing, landscaping, carpet cleaning or painting. The Complainant was sent a refund check in the amount of \$1,857.84 on June 11, 2020.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2020043501

Opened: 7/20/2020

First Licensed: 6/25/2003

Expires: 8/5/2020

Type of License: Real Estate Firm

History: 2017 Consent Order for Failure to Respond and Fraudulent or Dishonest Dealing; 2018 Consent Order for Refusal to Cancel a Contract

Complainant is an Ohio resident and the Respondent is a licensed Tennessee Real Estate Firm.

The Complainant owns and time share property with the Respondent purchased eight years ago and the Complainant has had to attend timeshare updates at the Respondent's property where the Respondent engages in high pressure sales tactics and lies and attempts to get the Complainant to buy more of an interest in the timeshare property. The Complainant had to attend a 60-minute update during the Memorial Day weekend which included an extensive explanation about how the members were helping guests during the COVID-19 pandemic. The Respondent told the Complainant the points could be saved up to five years. The Complainants were enticed by the points and the Complainant purchased a package of 2,500 points. The Complainant's signature was recorded on a tablet and the Complainant was not provided in anything in writing until the presentation was concluded. On the way home, the Complainant began to read through all the documents. There were many things the Respondent failed to explain to the Complainant. The Complainant is tired of being lied to and does not want to do business with a company that deceives consumers. The Complainant contacted the Respondent's offices the next morning and got a voicemail message and no one returned the call. The Complainant e-mailed the Respondent and did not receive a response. The Complainant also called the corporate office in Tennessee and were told the Complainant would have to wait five days to rescind. The Complainant drafted the

paperwork to rescind and advised the Complainant. The Complainant's representative indicated that once the rescission was received, the Complainant's credit card would be refunded. The Complainant received an e-mail confirmation but did not receive the refund on the credit card. The Respondent has sent a letter indicating the Respondent cannot fulfill the Complainant's cancellation requested because the sampler membership is not a timeshare purchase and the rescission rules do not apply. The Complainant would like a full refund.

The Respondent failed to provide a response to the Complaint.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for failure to respond to the complaint pursuant to Tenn. Code Ann. § 62-13-313(2).

Commission Decision: The Commission accepted counsel's recommendation, but also voted to open a complaint against the Principal Broker of the firm for failure to supervise.

44. 2020046071

Opened: 8/3/2020

First Licensed: 8/19/2009

Expires: 8/18/2021

Type of License: Time Share Registration

History: None

The Complainant is a Tennessee resident and the Respondent is a Nevada corporation and a licensed Tennessee Time Share Registrant.

The Complainant's parents transferred a timeshare to the Complainant in 2019. The Complainant attended a meeting in Tennessee to find out more information about the timeshare, how to use the point system and the reservation process. The Complainant was advised the current points were very limited and for \$4,500, the salesperson could increase the Complainant's points by 5,000 and would also add three vacation packages. The Complainant would be required to sign a loan with a bank on the spot for the amount. There were no other costs listed. The Respondent's salesperson indicated the contract would be sent to the Complainant and the Complainant never received the contract. The contract did arrive after the free cancellation period and this may have been because of the COVID-19 pandemic that resulted in the slowing of mail services. After the Complainant received the contract, the Complainant learned the total cost was \$40,340 and the Complainant had been completely misled. The Complainant did not authorize this amount and was only purchasing the points for the total cost of \$4,500.

The Respondent provided a response and stated the Complainant executed several documents at the time of the purchase including a Truth-In-Lending document, Purchase Proposal, and Purchase Agreement. The financial obligations were explained to the Complainant. Additionally, during a sales presentation, there are non-sales team members that review the documents with the purchaser. The Complainant met with a quality team member for over 45 minutes to discuss the purchase at the end of the sales process. The Complainant agreed to the terms of the contract and the purchase price of the points. The state statutory rescission period was ten (10) days and this

allowed the Complainant the time to fully review all the purchase documents. The Complainant could have cancelled during this period and obtained a full refund. The rescission period was listed in the Purchase Agreement above the signature line where the Complainant signed. After an internal investigation, the Complainant's allegations are unsubstantiated, and the statements made by the Complainant are misrepresentations and are likely the result of the Complainant's own financial hardship. The Respondent does not agree to release the Complainant from the contractual obligation.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

45. 2020054151

Opened: 8/3/2020

First Licensed: 11/27/2017

Expires: 11/26/2021

Type of License: Affiliate Broker

History: None

The Complainant is a licensed Tennessee Affiliate Broker and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent is paying one-third of the commission earned during a real estate transaction to anyone providing leads for the sale or purchase of real property in the State of Tennessee

The Respondent provided a response and denies the allegation and stated the Respondent does not offer any payment to any clients in exchange for using the Respondent's services. The Respondent provided a list names and telephone numbers of all the Buyers the Respondent has represented over the past year to verify any individual the Respondent represented was not paid any monies. The Respondent is willing to provide settlement statements or any other documentation to prove the Respondent does not engaged in such conduct.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

REPRESENTATIONS:

SHILINA BROWN

46. 2020026501

Opened: 5/18/2020

First Licensed: 6/23/2011

Expires: 1/25/2018 – Real Estate Firm - Voluntarily Surrendered

Type of License: Vacation Lodging Service

Expires 06/29/2022

History: None

Complainant is a Georgia resident. The Respondent is a licensed Vacation Lodging Service in Tennessee.

The Complainant rented a cabin in Tennessee for \$2,800 and did not purchase travel insurance. The Complainant stated that when the COVID-19 pandemic became a national pandemic two weeks before the scheduled travel to the cabin rental, the Complainant's were advised of the shelter-in-place directives by many states and decided to cancel the cabin. The Complainant has been unable reach the Respondent since the cancellation. The Complainant was initially advised by the Respondent to reschedule to next year, but the cost of the cabin for the same time next year could not be guaranteed. The Complainant requested a full refund from the Respondent, however, according to the terms of the rental agreement, the Respondent could only provide a 50% refund.

The Respondent did not provide a response.

Recommendation: Close.

Decision: The Commission voted to defer this complaint to the September meeting and for counsel to send the complaint out for investigation.

New Information: We have investigated, and it has been determined this company is licensed with a current Vacation Lodging Service license that expires on June 29, 2020. At the time of the complaint, the entity was current and properly licensed. An Investigator contacted the Respondent and went to the Respondent's place of business and discussed the matter. The Respondent issued a full refund to the Complainant although the contract terms do not require a full refund.

New Recommendation: Authorize a formal hearing and assess a \$1,000 civil penalty for failure to respond to the Commission pursuant to Tenn. Code Ann. § 62-13-313(2).

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

47. 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.

New Information: Legal Counsel is unable to locate the Respondent or the Respondent's business entity. We have resent the letters to the last known address and all mail is being returned. We conducted a search on the Internet and our legal database to find additional information and a current address and are unable to find a new or viable address. Also, the timeshare company is no longer in business and not operating in the State of Tennessee. As such, we cannot proceed against the Respondent because we are unable to provide proper initial notice of the violations. and will be unable to serve the Respondent the NOHC.

New Recommendation: Close.

New Commission Decision: The Commission elected to Close and Flag and also refer the matter to the County District Attorney's Office.

48. 2020041031

Opened: 6/15/2020

First Licensed: 11/2/2015

Expires: 11/1/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a Tennessee licensed Affiliate Broker.

The Complainant represented the property owner of a home listed for sale. The Respondent presented an offer on behalf of a buyer and it was countered by the Complainant's clients. The offer was accepted and bound, and closing date was set. There were multiple offers on the property. Prior to the closing, the Buyer's lender indicated to the Complainant about delays in the mortgage process and stated the buyers were local real estate agents. The Respondent failed to disclose to the Complainant or the Complainant's clients they were licensed real estate agents. The Complainant's clients were terribly upset and felt that this should have been disclosed and believed this was purposeful. The Seller believed the Seller was denied the ability to make an informed decision in the offer selection and negotiation due to the lack of disclosure.

The Respondent provided a response and stated the Respondent lived several 100 miles away and retained the services of a local real estate agent. The Respondent never acted in the capacity of a real estate agent and used the services of a licensed real estate agent. There was no need to disclose

the Respondent was a real estate agent, as it had no bearing on the transaction or the offer process.

Recommendation: Close.

Decision: The Commission accepted counsel's recommendation.

New Information: The Respondent is required pursuant to TREC Rules of Conduct that "[a]ll licensees shall identify themselves as a licensee when buying or selling property for themselves." 1260-02-.11 Personal Interest

New Recommendation: Authorize a formal hearing and assess a civil penalty of \$500 for violation of Tenn. R. & Regs .1260-02-.11 regarding personal interest.

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

49. 2020041051

Opened: 6/15/2020

First Licensed: 11/16/2017

Expires: 1/15/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a Tennessee licensed Affiliate Broker.

The Complainant represented the property owner of a home listed for sale. The Respondent presented an offer on behalf of a buyer and it was countered by the Complainant's clients. The offer was accepted and bound, and closing date was set. There were multiple offers on the property. Prior to the closing, the Buyer's lender indicated to the Complainant about delays in the mortgage process and stated the buyers were local real estate agents. The Respondent failed to disclose to the Complainant or the Complainant's clients they were licensed real estate agents. The Complainant's clients were terribly upset and felt that this should have been disclosed and believed this was purposeful. The Seller believed the Seller was denied the ability to make an informed decision in the offer selection and negotiation due to the lack of disclosure.

The Respondent provided a response and stated the Respondent lived several 100 miles away and retained the services of a local real estate agent. The Respondent never acted in the capacity of a real estate agent and used the services of a licensed real estate agent.

Recommendation: Close.

Decision: The Commission accepted counsel's recommendation.

New Information: The Respondent is required pursuant to TREC Rules of Conduct that "[a]ll licensees shall identify themselves as a licensee when buying or selling property for

themselves.” 1260-02-.11 Personal Interest

New Recommendation: Authorize a formal hearing and assess a civil penalty of \$500 for violation of Tenn. R. & Regs .1260-02-.11 regarding personal interest.

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

50. 2020036311

Opened: 5/26/2020

First Licensed: 2/28/2017

Expires: 2/27/2021

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a Tennessee licensed Affiliate Broker.

The Complainant was furloughed due to COVID-19 pandemic and was supposed to close on the sale of Complainant’s home. The Complainant requested an extension on the closing date from the Respondent’s client. The Seller declined to postpone the closing and Complainant alleges the Respondent demanded the Complainant move forward with the closing and strong-armed the Complainant to close on the property. The Complainant refused to leave the premises and close on the property. The Complainant later received a demand letter from the Respondent’s attorneys requesting payment of the commission fees, attorney fees and other fees totaling over \$6,000. The Complainant is unemployed and unable to pay any amounts to the Respondent.

The Respondent provided a response to the complaint and stated the Complainant entered a binding non-contingent contract for the sale of the Complainant’s home in April 2020 and unilaterally repudiated the contract and refused to make the Buyers whole. The Complainant breached the contract and is legally obligated to the Buyer, Respondent and Respondent’s firm. There were no contingencies concerning the Complainant’s employment status or ability to close on the home. An amendment to the contract was received in May 2020 and Respondent did not respond by the deadline because the Respondent’s client works odd hours in the medical field and the Respondent was unable to respond by the 5 pm deadline. This was communicated to the Complainant’s broker. The Respondent did respond to the extension after the deadline and agreed to a modest extension of the deadline.

The Respondent did not make any threats against the Complainant and did not try to strong-arm the Complainant concerning the closing, breach of contract or the legal consequences. The Respondent did advise his client not to sign the TAR Mutual Release form because it could result in the Respondent giving up any right to damages from the Complainant for the breach of contract in the event of a lawsuit.

This is a contractual dispute and there are no violations of the Tennessee Real Estate Broker License Act of 1973.

Recommendation: Close.

Commission Decision: The Commission elected to issue a \$1,000.00 civil penalty for the Unauthorized Practice of Law.

NEW INFORMATION: There was no information indicating the Respondent was a licensed Tennessee attorney. The Respondent contacted us and advised the Respondent was a licensed Tennessee attorney. Upon verification, the Respondent is a licensed Tennessee attorney with a valid license.

NEW RECOMMENDATION: Close.

NEW COMMISSION DECISION: The Commission accepted counsel's recommendation.

51. 2020040221

Opened: 6/15/2020

First Licensed: 4/9/2018

Expires:

Type of License: Time Share Registration

History: None

The Complainant is a Tennessee resident and the Respondent is a Florida timeshare corporation holding a licensed Tennessee timeshare registration.

The Complainant was contacted by the Respondent concerning two units that were available in Las Vegas, Nevada for \$149,990 that were originally \$233,590. The Complainant initially declined to purchase the property. The Respondent indicated the deal was only valid for two days and it would give the Complainant an "Elite Plus" membership. Also, the offer was a "deal of the day." After the Respondent kept calling for two days, the Complainant agree to purchase the property. The Complainant claims the Complainant is unable to use the property.

The Respondent failed to provide a response pursuant to Tenn. Code Ann. § 62-13-313(2).

Recommendation: Authorize formal charges and assessment of a civil penalty in the amount of \$1,000 for the above specified violation.

Commission Decision: The Commission accepted Counsel's recommendation.

New Information: There was a timely response provided by the Respondent, however, it was not included in the file or available at the time the Complaint was presented to the Commission. The Respondent stated it had received the request for cancel the vacation ownership interest due to the alleged misrepresentations at the time of the purchase and subsequent upgrade that occurred on May 24, 2019. The Respondent has reviewed all the documents and discussed it with the site where the sale occurred and has determined that

there were no pressure tactics or force used by the salespeople or the company to force any guest to purchase the property. The Complainant was presented with an offer to purchase and it was up to them to accept or deny the offer. This is the Complainant's fourth purchase with the Respondent and are familiar with the sales process and membership with the Respondent. The Respondent never represents an offer is only good for one day and the Respondent does not represent the vacation ownership interest as a financial investment. There is a Statement of Understanding which was initialed by the Complainant and signed their indication of their understanding. The Complainant also signed they understood it was for their own personal use and enjoyment and not for a financial or monetary advantage such as rental income. Also, the Respondent is given a complete summary of fees, including books fees associated with ownership. The Respondent's records indicate the Complainants have been using the membership and stays at the resorts with the exchange options. Also, the Complainants converted all their 2020 points to the vacation club. If the Complainants were experiencing any difficulty in obtaining their desired vacation, the Complainants contacted the club counselors for assistance. The reservation system is based on availability and there was no representation made there was a price difference between purchasing by phone than at the actual sales site. A review of the matter showed the Complainants were made aware of the purchase price and the financial obligations associated with their ownership to which they agreed. The Complainants were given time to review the purchase and ask any questions. Also, the Complainants are currently delinquent on the loan and in an effort to resolve the matter and as a courtesy, the Respondent will agree to offer a warranty deed and the Complainant will be allowed to deed their interest in the vacation ownership back to the developer. The Respondent will cancel the contract and forego their debt. This will be contingent upon their execution of the Mutual Release and Settlement Agreement along with the Warranty Deed.

New Recommendation: Close.

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

52. 2020029571

Opened: 6/1/2020

First Licensed: 11/6/1980

Expires: 7/10/2020

Type of License: Principal Broker

History: 2019 Consent Order for failure to supervise an affiliate which resulted in suspension of affiliate's E&O insurance

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Principal Broker. An Agreed Citation was sent to the Respondent for an advertising violation. The Respondent did not respond and did not provide a response to the complaint.

The Complainant alleges there was an advertisement from the Respondent's firm where the word "team" and states the "team" has a buyer ready to purchase the home of the recipient of the mailer. The Complainant does not understand how the advertisement could be issued as though the

Respondent has a buyer waiting to purchase the property being solicited. Also, the Respondent is soliciting the home to be put on the market and is the Respondent going to represent the homeowner of the home being solicited. The language used by the Respondent in the advertisement states "I have a client ready to buy in your neighborhood. Allow us to help." The reverse side clearly mentions the team. The advertisement does not have an office address and has an incorrect font size.

The Respondent has violated the Tennessee Real Estate Broker License Act of 1973. Specifically, Tenn. Code Ann. § 62-13-312(2) (Making any promise of a character likely to influence, persuade or induce any person to enter into any contract or agreement when the licensee could not or did not intend to keep the promise); Tenn. Code Ann. § 62-13-312(3) (Pursuing a continued and flagrant course of misrepresentation or making false promises through affiliate brokers, other persons, any medium of advertising or otherwise). Additionally, the Respondent has failed to exercise adequate supervision over the activities of any licensed affiliate brokers pursuant to Tenn. Code. Ann 62-13-312(15). There is evidence of a violation of the advertising rules. The Respondent's affiliates' flyer constitutes "misleading and/or deceptive advertising." Tenn. Comp. R. & Regs. 1260-02-.12(3)(f). Also, the Respondent did not provide a response in violation of Tenn. Code Ann. § 62-13-313(2).

Recommendation: Authorize formal charges and assessment of a civil penalty in the amount of \$4,500 for the above violations.

Board Decision: The Commission elected to issue a civil penalty in the amount of \$5,000.00 and to require that Respondent complete the Principal Broker Core class within 180 days of the execution of the Consent Order. The Class will be over and above the CE required for licensure.

New Information: The Respondent contacted our office and insisted the Agreed Citation was not sent to the Respondent. Upon further review, it appears the certified mail with the Agreed Citation was not mailed to the Respondent. We are unable to locate proof of the mailing or a signed certified mail receipt indicating it was actually sent to the Respondent. Legal Counsel recommends this matter be reconsidered for all the violations and the Commission allow the original Agreed Citation with the advertising violation to be sent to the Respondent to review and respond.

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

53. 2020029541
Opened: 6/1/2020
First Licensed: 5/18/2016
Expires: 5/17/2022
Type of License: Affiliate Broker
History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate

Broker and an Agreed Citation was sent to the Respondent for an advertising violation. The Respondent did not respond.

The Complainant alleges there was an advertisement from the Respondent where the word “team” and states the “team” has a buyer ready to purchase the home of the recipient of the mailer. The Complainant does not understand how the advertisement could be issued as though the Respondent has a buyer waiting to purchase a property. Also, the Respondent is soliciting the home to be put on the market and is the Respondent going to represent the homeowner of the home being solicited. The language used by the Respondent in the advertisement states “I have a client ready to buy in your neighborhood. Allow us to help.” The reverse side clearly mentions the team. The advertisement does not have an office address and has an incorrect font size.

All the required information (name, firm name and phone number) pursuant to Tenn. Comp. R. & Regs. 1260-02-.12(3)(b), Tenn. Comp. R. & Regs. 1260-02-.12(3)(c) appears on the postcard.

The Respondent failed to provide a response to the Agreed Citation and failed to provide a response to the complaint. Tenn. Code Ann. § 62-13-313(2).

There is evidence of any “misleading and/or deceptive advertising” pursuant to Tenn. Comp. R. & Regs. 1260-02-.12(3)(f). There are also violations of the Tennessee Real Estate Broker License Act of 1973. Specifically, Tenn. Code Ann. § 62-13-312(2) (Making any promise of a character likely to influence, persuade or induce any person to enter into any contract or agreement when the licensee could not or did not intend to keep the promise); Tenn. Code Ann. § 62-13-312(3) (Pursuing a continued and flagrant course of misrepresentation or making false promises through affiliate brokers, other persons, any medium of advertising or otherwise.)

Recommendation: Authorize formal charges and assessment of a civil penalty in the amount of \$4,000 for the above violations.

Board Decision: The Commission accepted counsel’s recommendation.

New Information: The Respondent indicated the Agreed Citation was not received. Upon further internal review, the certified mail with the Agreed Citation was not mailed to the Respondent and we are unable to locate proof of mailing or a signed certified mail receipt indicating it was actually sent to the Respondent. Legal Counsel recommends this matter be reconsidered for all the violations and the Commission allow the original Agreed Citation with the advertising violation to be sent to the Respondent to review and respond.

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

ANNA MATLOCK

**54. 2019099841
Opened: 12/12/2019**

First Licensed: 1/12/2007
Expires: 5/19/2021
Type of License: Principal Broker
History: None

Complainant is a licensed principal broker. Respondent is also a licensed principal broker. Complainant alleges that their client went under contract on a property listed by Respondent. Complainant states their clients were unable to qualify for the loan prior to closing and requested an extension, Respondent refused an extension and requested an increase in the trust money deposit and make it non-refundable for seller to extend closing. Complainant's client declined the offer. Complainant states their lender's denial letter was provided to Respondent and they requested Respondent release the earnest money and they refused. Complainant alleges per the contract's loan contingency earnest money is to be returned if the loan is not approved prior to funding and if there is an earnest money dispute action must be taken within twenty-one (21) days. Complainant states they have requested Respondent several times to interplead the money with the court, but Respondent has not responded. Complainant states their client would like a written response from Respondent on why the earnest money is not being returned in accordance with the rules and regulations. Complainant provided a copy of the transaction files.

Respondent answered the complaint stating Complainant emailed them on November 25, 2019 regarding the earnest money dispute and responded on November 27, 2019. Respondent states Complainant did not mention an extension until after expiration of the contract. The contract was signed on July 27th and the closing was scheduled for August 22nd. Respondent states in the contract in the special stipulations section that the sale was contingent on the loan closing within twenty (20) days. Respondent states the loan denial letter is dated October 2nd, thirty (30) days after the expiration of the contract. Respondent states they were informed by a local association and a former broker that since Complainant did not provide a denial letter until after expiration of the contract, the seller was not entitled to the earnest money. Respondent states Complainant did not fulfill their responsibilities as an agent by not sending proper documentation in a timely manner.

Complainant provided a rebuttal stating they would like to modify their complaint to consider rules considering failure to supervise as Respondent was unaware of their agent's earnest money dispute, violation of offers to purchase by alleging Respondent's agent did not provide the signed amendment documents to their client. Complainant states the trust money holder is a title company, but the agent deposited into a separate trust account by providing a copy of the Mutual Release of Purchase and Sale Agreement and Disbursement of Earnest/Trust Money, only signed by the seller.

Based on the information provided by Complainant and Respondent, it appears Complainant's client did not submit a loan denial letter to Respondent until October 2, 2019. According to the executed Purchase and Sale Agreement, closing was set for August 22, 2019. The contract states under special stipulations "buyers are well qualified and using local lender-conventional loan and can close FAST within 20 days. Buyers will pay own closing costs and pre-pays." Complainant contacted Respondent on November 25, 2019 requesting earnest money be returned. Counsel contacted Respondent to inquire the status of the earnest money, Respondent stated the money is being held with the attorney.

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

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.

ANNA MATLOCK

RE-PRESENT

55. 2019066961

Opened: 8/6/2019

First Licensed: 4/28/1990

Expires: 5/27/2021

Type of License: Principal Broker

History: None

Complainant is the owner and operator of a business engaged in the buying, selling, and auctioning of equipment, real estate, and other assets. Respondent is a licensed principal broker.

Complainant contracted to purchase real property as well as machine equipment listed for sale in Indiana. Respondent represented the seller and was the designated holder of the escrow funds per the terms of the purchase agreement. Complainant alleges that Respondent misappropriated their escrow payment of \$150,000 for their own personal gain. According to Complainant, Respondent acknowledged stealing the money and offered to reimburse the company with a piece of real property which Respondent claimed to have an interest in. Complainant states they reached a written agreement to transfer the property to Complainant but Respondent apparently sold it to someone else.

Respondent argues that the facts, as alleged, do not fall under the jurisdiction of the Commission because the transaction was for personal property located in Indiana and did not take place in Tennessee.

In rebuttal, Complainant states that it was a joint sale for both personal and real property. Complainant further argues that regardless of where the property was located, Respondent stole and misused Complainant's escrow funds in Tennessee.

The Commission's jurisdiction is not limited based upon where the real property in a transaction is located. The Broker License Act defines "real estate" as any "interest or estate in land, whether corporeal, incorporeal, freehold or non-freehold, and whether the real estate is situated in this state or elsewhere." Counsel recommends the Commission assess discipline against Respondent for the violation of Rule 1260-02-.09 (Managing Escrow or Trustee Accounts) and/or T.C.A. § 62-13-312(b)(5) ("Failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession that belong to others").

Recommendation: Suspension or revocation.

Decision: The Commission voted to revoke the Respondent's license.

New Information: Following the decision from the Commission, Counsel filed a Notice of Hearing and Charges against Respondent. Initially the hearing was set for April, but then continued several times due to the COVID-19 pandemic and Respondent obtaining counsel. Since Respondent has obtained counsel, Counsel has engaged in settlement discussions regarding Respondent's discipline. Respondent has been licensed for thirty (30) years without a single complaint filed against their license. Furthermore, Respondent is already making payments towards restitution to Complainant. To date, Respondent has paid over one third (1/3) of the amount agreed to. Following negotiations, Counsel recommends Respondent's license be suspended for one (1) year or until full restitution is paid, whichever is later. During Respondent's suspension, Respondent shall not incur any additional criminal, civil, or administrative penalties pertaining to their Tennessee real estate license. Furthermore, Respondent shall be responsible for all hearing and filing costs incurred to the Administrative Procedures Division ("APD"). Following the satisfaction of one (1) year, Respondent's license shall be reinstated. Respondent will be required to appear before the Commission in an informal appearance following completion of this discipline. Counsel believes this is a fair settlement agreement and satisfies both the Commission's discipline intentions and protecting the public.

New Recommendation: Suspension for one (1) year or until full restitution is paid, whichever is later. Respondent shall not incur any additional criminal, civil, or administrative penalties pertaining to their real estate license, pay all costs to APD, and appear before the Commission in an informal appearance.

New Decision: The Commission elected to continue with their original decision and to move forward with a hearing in this matter.

Chairman John Griess adjourned the meeting at 12:43PM