



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 December 09, 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, 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 Commissioner Moffett and seconded by Commissioner Smith. Motion passed unanimously by roll call vote.

The December 09, 2020 board meeting agenda was submitted for approval.

Motion to approve the agenda as amended to include the “Bill Tune Award nomination” was made by Commissioner Diaz and seconded by Commissioner Begley. Motion passed unanimously by roll call vote.

Minutes for the November 12, 2020 board meeting were submitted for approval.

Motion to approve the November 12, 2020 minutes as amended to remove “Presented Instructors” and add November Formal Hearing notice was made by Vice-Chair Franks and seconded by

Commissioner Guinn. Motion passed unanimously by roll call vote.

MEDICAL WAIVER REQUEST

Director Maxwell presented Luis Del Mazo to the commission requesting Medical Waiver.

Motion to approve Louis Del Mazo was made by Commissioner Diaz and seconded by Commissioner Farris. Motion passed unanimously by roll call vote.

EDUCATION REPORT

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

Motion to approve courses D1-D14 was made by Vice-Chair Franks and seconded by Commissioner Diaz. 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.

- **PROMOTIONS:** Director Maxwell advised the commission that Deputy Commissioner Carter Lawrence, has been promoted to Commissioner of the Department of Commerce and Insurance. In addition, Assistant Commissioner Toby Compton, has been promoted to Deputy Commissioner. Alex Martin has been promoted from the Governor's office to Assistant Commission of Regulatory Boards within the Department of Commerce and Insurance.
- **KENTUCKY RECIPROCAL AGREEMENT:** Director Maxwell advised that the agreement had to be amended to add additional language that meets Tennessee standards of licensure.
- **MISCELLANEOUS:** Director Maxwell advised that we are processing E&O renewals for the 2021-2023 period. In addition, with the COVID-19 pandemic RISC Insurance is working on a smaller staffing scale. Thus, creating a delay with renewals received via the mail and making online renewal is the best option for E&O renewals.

RULEMAKING HEARING: Associate General Counsel Anna Matlock advised of language changes to the rules presented at the “Rulemaking Hearing”

Motion to accept the rule changes to the *Fresh Start Act* was made by Commissioner Diaz and seconded by Commissioner Smith. Motion passed unanimously by roll call vote.

COMMISSION DISCUSSION:

Bill Tune Award Nomination: Vice-Chair Franks made the motion to nominate John Giffen a long serving REALTOR®, and Education Instructor, seconded by Commissioner Farris. Motion passed unanimously by roll call vote.

CONSENT AGENDA:

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

A motion to accept counsel’s recommendation for cases 1-57 with exception of the following cases which were pulled for further discussion: 2020061251, 2020056031, 2020062561, 2020062991, 2020060651, 2020060211, 2020062611, 2020064961, 2020067861, 2020058031, 2020059611, 2020061831, 2020046001, 2020063331, 2020051321, 2020030081, 2020050351, 2020053321 was made by Commissioner Torbett and seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020061251, Vice-Chair Franks made the motion **to accept counsel’s recommendation**. The motion was seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission, Vice-Chair Franks made the motion **to accept counsel’s recommendation** on complaint 2020056031, seconded by Commissioner Begley. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020062561, Vice-Chair Franks made the motion **The Commission elected to authorize a formal hearing and issue a Consent Order requiring Respondent to complete the eight (8) hour Principal Broker class**. The motion was seconded by Commissioner Diaz. Motion passed 8-1 by roll call vote. Commissioner Farris voted against.

After further discussion by the Commission, Commissioner Diaz made the motion **to accept counsel’s recommendation** on complaint 2020062991, seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

1. **2020057301**
Opened: 8/24/2020
First Licensed: 8/27/2012
Expires: 8/26/2022
Type of License: Affiliate Broker
History: None

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

The Complainant entered into a lease agreement on March 1, 2019 for premises that were shown by the Respondent. All parties to the transaction were aware the Complainant and the partner would be operating a hookah lounge and would serve alcohol on the leased premises. The Complainant tenant was unable to obtain an alcohol permit due to the property located in close proximity to a church. When the parties entered into the lease agreement, there may be a possibility it would be impossible to operate a hookah lounge that served alcohol on the leased premises due to the presence of a church. The property was zoned as agricultural and residential and had a planned unit development overlay. After the Complainant were not able to obtain an alcohol permit, the Complainant tenants were no longer interested in continuing with the lease due to the fact that the original plans could not be undertaken to open and operate a hookah lounge. The Complainant claims it was the fault of the Respondent for not advising the Complainant and the partner prior to the lease agreement being signed that the Complainant would not be able to obtain an alcohol permit because of the close proximity of the church to the leased premises.

The Respondent provided a response and stated the Respondent did not fail to disclose any adverse facts and had no actual notice or knowledge of the church and there were no provisions or conditions to obtain liquor by the drink license in the lease. Also, there were no preconditions to the obligations under the lease agreement. The presence of the church next to the premises should have been a consideration of the Complainant prior to leasing the premises if the intended purpose was to serve alcohol and it was not the duty of the Respondent to ensure the Complainant would be able to obtain a liquor by the drink license.

The Respondent stated the Complainant voluntarily entered into the initial lease term for three years beginning on March 1, 2019. After the Complainant and the partners were unable to obtain a liquor license, the Complainants failed to make a single payment of rent. The Respondent had to file a lawsuit to obtain possession and past due rents in the amount of \$30,142.40 and a hearing was set for September 2, 2020.

This is a contractual dispute between the parties and the Respondent is not a party to the lease agreement. There were no issues concerning the non-disclosure by the Respondent. The Respondent provided full disclosure at all times during the transaction and the actions of the Respondent were not the cause of the Complainant not being able to use the premises for the intended purpose.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

2. **2020057311**
Opened: 8/24/2020
First Licensed: 2/22/1995
Expires: 10/20/2022
Type of License: Real Estate Firm
History: None

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

The Complainant entered into a lease agreement on March 1, 2019 for premises that were shown by the Respondent. All parties to the transaction were aware the Complainant and the partner would be operating a hookah lounge and would serve alcohol on the leased premises. The Complainant tenant was unable to obtain an alcohol permit due to the property located in close proximity to a church. When the parties entered into the lease agreement, there may be a possibility it would be impossible to operate a hookah lounge that served alcohol on the leased premises due to the presence of a church. The property was zoned as agricultural and residential and had a planned unit development overlay. After the Complainant were not able to obtain an alcohol permit, the Complainant tenants were no longer interested in continuing with the lease due to the fact that the original plans could not be undertaken to open and operate a hookah lounge. The Complainant claims it was the fault of the Respondent for not advising the Complainant and the partner prior to the lease agreement being signed that the Complainant would not be able to obtain an alcohol permit because of the close proximity of the church to the leased premises.

The Respondent provided a response and stated the Respondent's affiliate broker did not fail to disclose any adverse facts and had no actual notice or knowledge of the church. There were no provisions or conditions to obtain liquor by the drink license in the lease. Also, there were no preconditions to the obligations under the lease agreement. The presence of the church next to the premises should have been a consideration of the Complainant prior to leasing the premises if the intended purpose was to serve alcohol and it was not the duty of the Respondent to ensure the Complainant would be able to obtain a liquor by the drink license.

The Respondent stated the Complainant voluntarily entered into the initial lease term for three years beginning on March 1, 2019. After the Complainant and the partners were unable to obtain a liquor license, the Complainants failed to make a single payment of rent. The Respondent had to file a lawsuit to obtain possession and past due rents in the amount of \$30,142.40 and a hearing was set for September 2, 2020.

This is a contractual dispute between the parties and the Respondent is not a party to the lease agreement. There were no issues concerning the non-disclosure by the Respondent. The Respondent provided full disclosure at all times during the transaction and the actions of the

Respondent were not the cause of the Complainant not being able to use the premises for the intended purpose.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

3. **2020058061**
Opened: 8/24/2020
First Licensed: 1/20/2015
Expires: 1/19/2021
Type of License: Affiliate Broker
History: None

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

The Complainant Seller sold a home on July 31, 2020 and the Respondent was the Buyer's agent. The Buyers asked if we could move in early before the closing and the Complainant Seller refused. The Buyer did a final walk through and the Respondent did not attend the final walkthrough. The Complainant's agent removed all the keys, garage door openers, etc. The Complainant later learned the Buyers entered the home using the lockbox key and moved into the home on the closing date. On the closing date, the Complainant did not receive the wire transfer of funds. The Respondent agent allowed the Buyers to move into the home knowing the funds for the payment of the home would not be available.

The Respondent provided a response and stated the closing date was on July 31, 2020 and the Complainant Sellers closed and signed the documents on July 29, 2020. The Respondent did conduct a final walk through on July 30, 2020 and had approval from the listing agent to take the Buyers to the home. The Respondent stated after the walk through the Respondent would hold the key for the listing agent. On July 31, 2020, the Buyers closed on the home and also closed on the Buyer's previous home. All keys and garage door openers were provided to the Buyers. It appears the wire transfer did not go out before the cutoff on Friday, July 31, 2020 and the Complainant Sellers received the proceeds on Monday, August 3, 2020. Title companies will only issue a seller proceeds via wire transfer now and not by check. Therefore, the earliest the funds would reach the Complainant Sellers account on Monday, August 3, 2020 even though the closing occurred on July 31, 2020. Possession was to be given to the Buyer at the closing which occurred on July 31, 2020. The documents did not provide that possession would be given when the Seller received the money in their bank account. The Respondent did not allow the Buyers to move into the home earlier and it was not the fault of any party to the transaction that the proceeds from the sale did not get deposited into the Sellers account until the following Monday.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

4. **2020058721**
Opened: 8/24/2020
First Licensed: 9/14/2010
Expires: 9/13/2022
Type of License: Affiliate Broker
History: None

The Complainant is an anonymous complainant. The Respondent is a licensed Tennessee Real Estate Affiliate Broker.

The Complainant alleges the Respondent provides customers a 1% commission in cash after closing. The Complainant did not provide any proof or evidence of the allegation against the Respondent.

The Respondent provided a response and stated the accusation is false. The Respondent does not engage in such conduct and is keenly aware of the laws and rules of the Commission and would never do anything as alleged to jeopardize the Respondent's license.

The Complainant did not provide sufficient proof of the allegation and there is no evidenced or additional information to suggest the Respondent engages in providing a 1% commission to customers.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

5. **2020061251**
Opened: 8/24/2020
First Licensed: 8/15/2007
Expires: 1/10/2022
Type of License: Affiliate Broker
History: None

Complainant is an anonymous individual. The Respondent is a licensed Tennessee Real Estate Affiliate Broker.

Complainant alleges the Respondent has advertised a home for sale on Zillow and MLS and has failed to disclose the Respondent is the Owner Agent of the property.

The Respondent stated the home was purchased through an auction company and the closing was conducted with the title company by telephone. The Respondent was not listed as the owner on the title of the home and the Respondent is not the Owner Agent of the home. The Respondent was the listing agent. The Respondent was selling the home for his wife who owns several homes in her name alone.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

6. **2020055341**
Opened: 8/31/2020
First Licensed: 7/2/2007
Expires: 7/1/2021
Type of License: Affiliate Broker
History: None

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

The Complainant alleges the Respondent misled the Complainant concerning the contract terms, withheld information and reports and prevented both parties from making a timely decision in the purchase of residential property. The Complainant also alleges the Respondent's friend and loan officer made derogatory comments towards the Complainant. The Respondent apologized for the friend's action and alleged the friend caused the contract issues. The Complainant wanted to know how the contract percentages were changed in the contract without the Complainant's authorization. The Complainant also wanted to know about the contingencies that were to be done prior to closing and the Respondent stated all the items had been completed. The Complainant had visited the home for the walk through and the items were not completed. Also, the termite inspection report had not been provided to the Complainant. The Respondent admitted to forgetting to schedule the termite inspection. The Respondent had to have the termite report rushed to be completed the day before the closing. There was only old termite activity and the Respondent would be responsible for the cost of the termite treatment. The loan officer agreed to decrease the closing costs because of the mistake made by the Respondent and make a donation to a military organization for the inappropriate comments of the prior loan officer. The Complainant had not received the termite inspection report, had not been able to conduct an inspection to determine if the contingencies had been completed, did not receive the appraisal, and had been misled on the terms of the contract. The Complainant later learned the Respondent's wife was an employee of the lender and had worked on the Complainant's loan. The Respondent had failed to disclose the Respondent had a personal interest with the lender. As a result, on the day of the closing the Complainant backed out of the contract. Two days later, the Respondent e-mailed the Complainant concerning the earnest money and the release that needed to be signed by both parties. At this point, the Complainant still had not received the termite report from the Respondent. The Respondent finally sent the report and the report stated there were visible signs of dead termite activity and suspended termite activity in multiple areas of the home including the crawl space and further termite treatment or further inspection was recommended. The termite report also stated the wood on the crawl space floor had termite casings on it. The termite report stated the contingencies were not met because the wood was still in the crawl space. The Complainant states the Respondent had provided the Complainant with false information concerning the contingencies and had purposefully withheld the termite report.

The Respondent provided a detailed extensive synopsis of the transaction with exact dates and times and transcribed texts messages and e-mails from the Complainant with detailed information concerning the transaction. The Respondent stated the Complainant entered into a contract to purchase a property for \$250,000 and later got the Seller to agree to reduce the price to \$247,500, additional closing costs and a new HVAC system in exchange for buying the property "AS IS." After the Seller incurred the expense to do the repairs and replacements, the Complainant decided to withdraw from the contract when the lender's appraisal was going to take an extra day to complete. The Complainant told the Respondent there was had been a dispute with the Lender and this prompted the Complainant to cancel the contract on July 15, 2020. The Complainant was advised the Complainant may forfeit the earnest money deposit, however, was not concerned at the time the contract was cancelled. The Seller was always willing to cooperate and work with the Complainant. The final inspection had not even been completed and the reason for cancelling the contract had nothing to do with not receiving the appraisal or the termite report. The Complainant could have also extended the closing date so that all items could be completed but declined to extend the date. The Complainant refused to cooperate in the transactions after the dispute with the Lender and is now is demanding the return of the \$1,000 earnest money deposit.

This matter is a contractual dispute between the Complainant and the Seller concerning the earnest money and was not the result of the actions of the Respondent. The Respondent has not violated any of the laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

7. **2020056031**
Opened: 8/31/2020
First Licensed: 11/13/2003
Expires: 11/12/2021
Type of License: Affiliate Broker
History: None

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

The Complainant alleges the Respondent signed an agency agreement with the Respondent on March 27, 2020 for the sale of the Complainant's mother's home. The Complainant held the power of attorney for the mother. Within 24 hours of entering the contract, the Complainant alleges the Respondent engaged in a continued course of misconduct. The day after the Respondent entered into the agency contract with the Complainant, the Respondent showed the home to unrepresented buyers and had the buyers signed an agency agreement and the "Confirmation of Agency Status" to convert the Respondent's status as the facilitator. The Respondent wrote and submitted a contract to the Complainant on behalf of the same buyers and the Respondent did not discuss the contract with the Complainant prior to the execution of the contract. The following day, the

Respondent left a voicemail stating the offer had been written for March 28, 2020 and wanted to make sure it was alright with the Complainant. The Respondent stated the reason for not discussing the actions before proceeding was it came up quickly, it was “out of the blue,” and “it was supertime.” The contract was sent to the Complainant just after midnight. The Respondent continued to offer a lower commission of 5% if the Complainant would agree to allow the Respondent to continue to serve in the facilitator status. The Complainant rejected the purchase offer at approximately 5 o’clock pm the following day and told the Respondent to have the Buyers hire their own agent. The Complainant alleges the Respondent’s failure to obtain prior consent before converting to facilitator status is a violation of both the agency contract and Tennessee law (Tenn. Code Ann. § 62-13-102(9)(B) and it constitutes unethical conduct and a violation of the Respondent’s fiduciary duties. Also, on April 5, 2020, the Complainant signed a sales agreement with a buyer and the closing date was set for May 13, 2020. The Complainant lives in the Washington D.C. area and the closing was to be conducted remotely. The Respondent rarely communicated with the Complainant after the final sales contract was signed on April 5, 2020. The only contact the Respondent had with the Complainant was with the title company and it was a request for the Complainant’s father’s death certificate. The first substantive communication from the Respondent was by e-mail on April 24, 2020 and simply advised the Complainant the closing would be earlier. The Complainant advised the Respondent and the title company the Complainant would not agree to an early closing date and the Respondent continued to send messages concerning the early closing date. The Respondent unilaterally agreed to a closing date of May 5, 2020 and the Respondent never provided any assistance with the closing process, including the details for the remote closing process. The Complainant alleges this is a violation of Tenn. Code Ann. § 62-13-404(1) and the failure by the Respondent to assist with the necessary forms is a violation of Tenn. Code Ann. § 62-13-404(3)(A)(iv). The Respondent advised the title company about the Complainant not agreeing to an early closing date and the Respondent stated it was “her fault” and took “total responsibility” for the change. At this point, it was too late to change the date. The Complainant was advised on the eve before closing that the Buyers would be closing at 8 am the next morning and the moving trucks were scheduled to arrive at 10 am. The Complainant had not addressed the homeowner’s insurance policy, utilities and other details related to the home. None of these items had been discussed with the Complainant. Also, the Complainant’s mother’s car was still in the carport with a dead battery. The Complainant detailed these concerns to the title company and to the Respondent that evening and only responded minutes before the Buyers closed the next morning.

The Respondent provided a response and stated there were two listing agreements. The house did not sell pursuant to the first listing agreement because the asking price was too high. The house was relisted a second time after the Winter. The Respondent never became a facilitator. Also, there were a few offers on the home and the Complainant choose the offer that was \$10,000 less. The same title company was used by both the buyer and seller and the this was the closing agent in the Purchase and Sale Agreement. The Complainant agreed to the May 8 closing date and signed the documents on May 8, 2020. The Respondent stated there were no issues with the closing. The Respondent stated the Complainant was a difficult client and was very demanding throughout the entire process. The Respondent had to do several extra things to the home because the Complainant resided in Virginia. The Respondent had to change drapes, purchase Glade Plug-Ins and do various other things to assist in the sale of the home. The Complainant had a

misunderstanding of the representation provided by the Respondent and the Respondent only represented the Complainant.

The Respondent has not violated any of the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

8. **2020062561**
Opened: 8/24/2020
First Licensed: 4/19/2013
Expires: 4/4/2022
Type of License: Principal Broker
History: None

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

The Complainant alleges the Respondent had a property listed for sale and used old pictures showing the home to be in excellent condition with kitchen appliances. There were no disclosures and the pictures that were used were not the accurate representation of the property and the appliances were not to be included in the sale. The Respondent was not willing to address the need for flood insurance even after several hours of investigation. The Respondent finally responded to the Complainant and stated the property had been rented and there was damage to the property and all the appliances were removed. The Complainant alleges the Respondent acted in an unprofessional manner in providing real estate services.

The Respondent provided a response and stated the Respondent had a conversation with the Complainant on August 14, 2020. The Respondent received a text message at 2:02 pm and the entire conversation was concluded at 3:27 pm. The longest duration of the conversation was four minutes. The Respondent stated the Complainant asked about the flood insurance and the Respondent stated it did not have flood insurance and the property had not been previously financed. The local lender stated an elevation certificate was necessary and the Respondent advised the Complainant how to obtain an elevation certificate. The Respondent was unaware the appliances had been taken by the previous tenants. The Seller of the home allowed the previous residents who were family members to remain in the home after it had been listed for approximately one month. The Respondent had only recently discovered the appliances were missing and advised the Complainant new photographs would need to be taken. The Respondent answered all questions promptly and professionally. The Respondent provided screenshots of the text communications messages between the Complainant and the Respondent.

The Respondent did not violate any of the laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission elected to authorize a formal hearing and issue a Consent Order requiring Respondent to complete the eight (8) hour Principal Broker class.

9. 2020062991
Opened: 8/24/2020
First Licensed: 4/18/2017
Expires: 11/11/2022
Type of License: Affiliate Broker
History: None

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

The Complainant alleges the Respondent has an expired license and used an agent to practice real estate but did not have any further information concerning the details of the transaction or any other identifying information concerning the allegation.

The Respondent provided a response and stated the real estate license has been renewed. The license status has been verified and confirmed. The Respondent has a valid affiliate broker license.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

10. 2020058421
Opened: 8/24/2020
First Licensed: 1/17/1990
Expires: 2/19/2021
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 alleges the Respondent referred an account to a collection agency in the amount of \$2,440 for charges associated with a rental agreement for the period of April 2011 to December 2013. The Complainant has documentation from the Respondent and a final billing statement which indicates the balance owed is \$821.98. The Complainant was offered a settlement of the amount for \$408.49 in February 2014. The Respondent never responded to the offer of settlement submitted to the Respondent. The Complainant never received any calls, letters or other correspondence from the Respondent. The Complainant alleges the Respondent is engaged in

unethical business practices by inflating amounts owed to their company and refusing to properly validate debts.

The Respondent provided a response to the complaint. A lease was executed on April 14, 2011 for a 24-month period. The lease was extended for an additional nine months and the rental amount was \$850 for the entire period. The Complainant never gave notice to the Respondent when vacating the property. Upon conducting a walk through, the Respondent found damage to the property and took several pictures of the damage to the property. A statement of the account was sent to the Complainant with itemized damages and three late fees. The total amount was \$1,321.98 and a \$500 security deposit was credited. The balance due from the Complainant was \$821.98. The Complainant contacted the Respondent and disputed the damage charges. The Complainant was only being charged \$756.98 for damage to the carpet which was prorated and only ½ of the total for new carpet replacement. The Respondent was unable to accept the proposed reduced amount by the Complainant. The Complainant also proposed to make the payments over a four-month period which the Respondent also refused to accept. The Respondent did not actively pursue collection activities and was aware the Complainant had been relocated by an employer. In January 2019, the Respondent referred the matter to a collection agency of all inactive files and the Complainant's account was referred to the collection agency at this time. The additional amounts being charged are being charged by the collection agency. The majority of the unpaid charges by the Complainant are for damage to the property. The owner of the property will receive majority of the amounts not the Respondent. The Respondent's fees are from the rent and late fees. The Respondent denies engaging in unethical conduct or business practices.

The Respondent has not violated any of the laws of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

11. **2020058131**
Opened: 8/31/2020
First Licensed: 11/6/2013
Expires: 9/30/2021
Type of License: Principal Broker
History: None

The Complaint was filed by an anonymous Complainant. The Respondent is a licensed Tennessee Principal Broker.

The Complainant claims the Respondent is a broker at a real estate firm and has an agent working at the real estate firm who is not properly licensed. The agent was broker released, but the Respondent allowed agents that are not licensed to work at the Respondent's firm.

The Respondent provided a response and stated the individual in question was in the process of transferring from another real estate firm to the Respondent's firm. The documents were completed on February 28, 2020 through DotLoop. The Respondent also sent a note to the former broker. The Respondent submitted the documents on the same day. The Respondent was unaware when the former broker released the individual in question. The TREC Form 1 was not submitted by the individual agent until late July or early August. On March 6, 2020, the individual agent received notification the TREC 1 form had been signed and was ready to be picked up. The transfer of the individual broker was occurring during the COVID shutdowns and the Respondent's firm had concerns about the health and safety of the agents, team and public. This concern took precedence over checking on the status of the documentation which the Respondent believed had already been submitted. As a result, the Respondent later learned the individual agent was in "Broker Release" status and could submit the documentation online. The Respondent stated the individual never operated outside of the Respondent's supervision since February 29, 2020 and has a good record of customer and client satisfaction.

Recommendation: Letter of Warning to the Respondent concerning ensuring real estate affiliates are broker released, filing the proper documents with the Tennessee Real Estate Commission and having real estate agents properly licensed by a real estate firm.

Board Decision: The Commission accepted counsel's recommendation.

12. **2020060651**
Opened: 8/31/2020
First Licensed: 6/22/2001
Expires: 9/20/2021
Type of License: Affiliate Broker
History: None

Complainant is a Florida resident and owns a rental property in Tennessee and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant owns a property in Tennessee managed by the Respondent and decided to use the Respondent to sell the home. The closing occurred on June 25, 2020 and the Buyers wanted to move into the home early. The Buyers owed \$90 in early occupancy rental fees. The Buyer had a money order for payment of the rental fees and the Respondent was supposed to collect it at closing. The Respondent was supposed to mail the money order immediately, however, the Respondent waited four days to mail it. The Complainant contacted the Respondent and the Respondent stated not to worry since there were mail delays and it could take up to two weeks for the money order to arrive. The Respondent did not purchase mail tracking for the money order and someone in the Respondent's office just mailed it regular mail to the Complainants. After several weeks, the Complainant still had not received the money order and the Respondent told the Complainant "it will show up sooner or later." The Complainant requested the Respondent contact the Buyer to find the receipt and the Respondent finally agreed to contact the Buyer and the Buyer was unable to locate the receipt. The Complainant alleges the Respondent was negligent in the handling of funds that were due to the Complainants. After it became clear, the money order

had been lost, the Respondent began to make excuses to the Complainant and stated the Respondent was doing the Complainant a favor and the Complainant did not instruct the Respondent to obtain tracking for the money order and it was not pre-agreed that he would send the money. The Complainant stated this was incorrect. The Respondent had agreed in advance to forward the money order and never asked if the Complainant wanted tracking for the mailing and the Respondent should have used common sense when sending money via mail. The Respondent only made excuses to the Complainant without taking any responsibility for the lost money order.

The Respondent provided a response and stated the Complainant agreed to the money order being sent by regular mail. The Respondent asked the Broker if it should be sent by certified mail and the Broker asked if the Seller had paid to have it sent by certified mail. Since the Seller had not, the Broker indicated to just send it by regular mail. The Seller did not give any instructions to the closing agent or the Respondent concerning how to send the money. Complainant did not ask for tracking or for the money order to be sent by certified mail. The Respondent was sending the money order as a favor to the closing agent.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

13. **2020062061**
Opened: 8/31/2020
First Licensed: 4/27/2006
Expires: 7/15/2021
Type of License: Principal Broker
History: None

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

The Complainant alleges the Respondent was involved in closing a transaction with the Complainant. The Respondent used Facebook in an attempt to interfere with the Complainant's listing with the Seller. The Complainant alleges the Respondent sent two social media messages to the Seller of the property. The Respondent contacted the Seller and asked about the details concerning the MLS listing. The Complainant alleges the Respondent intentionally and deceitfully reached out to the Seller directly to undermine and interfere with the contractual relationship between the Complainant and the Seller. The Respondent was aware of the Exclusive Designated Agency Agreement and deceitfully attempted to communicate directly with the Seller.

The Respondent provided a response to the complaint and stated the offer to purchase was submitted by a Buyer, the Respondent's client. A counteroffer was submitted by the Seller and the counter was bound on July 13, 2020 with an anticipated closing date of August 12, 2020. When the offer was bound, the Complainant did not return a signed copy of the Compensation Agreement. When the Respondent's office contacted the Complainant, the Complainant failed to respond. It appeared the Complainant had opened and viewed the Agreement according to

DotLoop (digital signing portal) but chose not to sign the document or return it. Five days before the closing, the Complainant asked the Respondent to correct the compensation agreement to match the advertised compensation listed in the MLS. When the Respondent checked the MLS listing, the compensation listed was \$1.00 on MLS. The Respondent could not believe it and was sure this was an error. The Respondent contacted the Managing Broker for guidance. The Broker instructed the Respondent to contact the Complainant to clarify and confirm. The Respondent contacted the Complainant and the Complainant stated the compensation was in fact \$1.00 and confirmed the amount on the MLS listing. The Respondent was confused and believed it was possible the Seller was unaware of the \$1.00 compensation and sent a message asking the Seller about the if the Seller was aware of the compensation amount listed on MLS by sending a Facebook message. The Respondent was not interfering with the contract and was merely verifying with the Seller of the property that the Seller intended for the compensation to be \$1.00. The Respondent accepted the amount of the compensation advertised on the MLS and the transaction closed on August 12, 2020.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

14. **2020063391**
Opened: 8/31/2020
First Licensed: 12/1/2016
Expires: 11/30/2022
Type of License: Principal Broker
History: 2018 Consent Order

The Complainant is a licensed Tennessee real estate agent and the Respondent is a licensed Tennessee Principal Broker.

The Complainant alleges the Respondent was the listing agent for a property the Complainant's client had a contract on July 20, 2020. When the contract was accepted and bound, the Multiple Listing Service ("MLS") stated the Buyer's agent was to receive a 2.9% commission. A bidding war began and the Complainant agreed to drop the commission to 2.5%. After the necessary documents were drafted and submitted to the Respondent, a customer service representative sent an e-mail to the Complainant and asked for a letter from the Complainant's broker showing approval of the reduction in the commission amount. The Complainant provided a letter and the Respondent actually changed the commission amount to 2.4% and this occurred after the contract has been bound. The Complainant contacted the Respondent's representative and stated the Respondent was to receive 1% of the Buyer's agent commission. The Complainant advised this had not been disclosed and it could not occur. There were several e-mails, calls and other requests exchanged between the Complainant and the Respondent's representative. The Respondent asked the Complainant to send the commission change on MLS and the Respondent would then sign the compensation agreement. The Complainant immediately sent both MLS sheets with the change and the compensation agreement. To date, the Complainant has not received the signed compensation agreement. The Respondent has already been paid and the Seller had no idea the

Respondent was trying to take 1% of the Buyer's agent's commission. The transaction closed on August 24, 2020. The Respondent has been contacted on numerous occasions and has still not responded.

The Respondent provided a response and stated the Respondent was the listing company and the listing was a limited service listing which the Respondent had an exclusive listing agreement. The Complainant dealt with the Seller directly and negotiated the commission with the Seller to an amount less than what was advertised on the MLS. Since the Complainant negotiated directly with the Seller and agreed to reduce the commission with the Seller and had never contacted the Respondent. The Respondent had advised the Complainant by e-mail that this was an exclusive listing agreement with the Seller for the property. The Respondent alleges the Complainant has several Code of Ethics violations based on these actions.

This matter is a contractual dispute between the parties concerning the commission amounts.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

15. **2020054791**
Opened: 8/31/2020
First Licensed: 7/23/2002
Expires: 10/28/2022
Type of License: Real Estate Firm
History: None

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

The Complainant alleges the Respondent refused to provide a refund for a cabin rental following the cancellation by the Complainant during the COVID-19 pandemic. The Complainant alleges the Respondent is also re-renting the cabins and getting paid two times for the rental. The Respondent offered a two year credit certificate for the Complainant to make a reservation in the future but refused to provide a refund. According to the Vacation Rental By Owner (VRBO) guidelines in the listing, a full refund was available, however, VRBO could not issue a refund without the authorization of the Respondent.

The Respondent provided a response and stated the Complainant signed a rental agreement that clearly stated there were no refunds permitted under any circumstances. The Complainant understood there would not be any refunds. Due to the COVID-19 pandemic, the Respondent has made an exception and allowed for a two-year rebooking period for the rental.

This matter is a contractual dispute between the parties. There are no violations of the Tennessee Real Estate Act or the Rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

16. **2020060211**
Opened: 8/31/2020
First Licensed: 8/10/2018
Expires: 8/9/2022
Type of License: Real Estate Firm
History: 2019 Consent Order

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

The Complainant alleges the Respondent's billboard on a highway states "[G]et a guaranteed offer on your home today." When the Complainant contacted the Respondent, the Respondent's representative indicated the Respondent does not purchase homes in the area. The Complainant alleges the Respondent should not be advertising in the area if the Respondent does not purchase homes in the area, the Respondent should remove the billboard, and there should be a more accurate advertising message.

The Respondent provided a response and stated the billboard is part of the firm's "Guaranteed Offer program." The billboard does clearly state that the offer is "subject to terms and conditions."

Recommendation: Close.

Board Decision: The Commission elected to authorize a formal hearing and issue a Consent Order with a \$1000.00 civil penalty for the advertising violation to the firm and to open an administrative complaint against the Principal Broker for failure to supervise.

17. **2020062841**
Opened: 8/31/2020
First Licensed: 1/9/2008
Expires: 1/8/2022
Type of License: Real Estate Firm
History: 2017 Consent Order

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

The Complainant alleges the Respondent allowed a non-licensed individual to enter into a contract with the Complainant. The Complainant has terminated the contract with the company on August 6, 2020 and the Respondent is refusing to terminate the contract, forward all funds owed to the Complainant and return the keys to the home to the Complainant.

The Respondent provided a response and stated the Complainant demanded entry onto the property owned by the Complainant. Since there was a tenant residing on the property, the Complainant would not be permitted to enter unless there was an appointment and the Respondent made an appointment for the Complainant to enter the premises. The Respondent stated they did not refuse to terminate the management agreement with the Complainant, but are awaiting legal advice from the Respondent's attorney on how to handle the remainder of the lease with the tenant and the return of the security deposit issue since the Complainant has refused to sign the release of liability of the Respondent firm submitted to the Complainant. The Complainant has visited the Respondent's appointment unannounced and without an appointment during the COVID-19 pandemic and the Respondent's office was not open to the public and this procedure has been in place for the Respondent since March 2020. Also, all owners and tenants have been advised of this procedure. The Complainant has demanded the return of the keys to the property and the \$2,100 in security deposit and the Complainant has been advised on numerous occasions the Respondent has to wait to hear back from the Respondent's attorney and will get back to the Complainant concerning this matter after the attorney advises the Respondent. The Complainant started to yell in the office and removed the mask and told the Respondent "you are fired." The Complainant later visited the property and demanded the tenant allow the Complainant to measure one room. The tenant allowed the Complainant to enter the premises and measure the room. The Complainant also called the Respondent during the visit and started to yell at the Respondent. The Complainant also asked the tenant for a copy of the lease and the tenant e-mailed a copy of the lease to the Complainant. Later, the Complainant again called the Respondent after hours and told the answering service the Complainant must speak to the owner of the firm. Since the Respondent could not be reached, the Complainant tried the Respondent's cell phone and tried to explain the procedure for the return of the security deposit. The Respondent was still waiting to hear back from the Respondent's attorney concerning this matter. The tenant's lease was due to expire by August 31, 2020 and the Respondent was required to finish up all duties required concerning the closing of the tenancy and the return of any security deposit monies.

The Complainant also accused the Respondent of sending fraudulent invoices for pressure washing, however, the invoice had been previously approved by the Complainant. The Complainant also harassed the owner of the pressure washing company for the invoice. This was not a fraudulent charge and proof of the work being completed was also provided to the Complainant. The Complainant also filed a police report with the county Sheriff's Department. A police officer visited the Respondent's office and spoke to the Respondent and another real estate agent for two hours about the allegations made by the Complainant. Thereafter, the Complainant's son called and e-mailed the Respondent daily. The Respondent's attorney has attempted to resolve this matter with the Complainant on numerous occasions and even drafted an "Assignment of Lease" document with indemnification language and the Complainant has refused to sign the documents until certain language is removed. The Respondent has even removed the indemnification language knowing this may subject the Respondent to the filing of a lawsuit, and the Respondent still refuses to sign the document. The Complainant has demanded \$40,000 and up to \$55,000 in addition to the tenant's security deposit monies of \$2,100. The Complainant has been unable to provide an explanation as to why these large amounts are owed by the Respondent. There are no monies owed to the Complainant and the Respondent has provided a full ledger and a complete accounting for the property for the past five years. During the past five years, there has never been any conflict concerning the property and all matters have been thoroughly

explained and resolved. The Complainant continues to send the Respondent and the Respondent's attorney daily e-mails making demands and threatening action to collect the debt. At this point, the Respondent is concerned for the safety of the staff. There have been over 20 threatening phone calls made by the Complainant.

This matter is a contractual dispute between the parties and there are no violations of the Tennessee Real Estate License Act or the Rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

18. 2020056321

Opened: 9/8/2020

First Licensed: 12/23/2013

Expires: 12/22/2021

Type of License: Affiliate Broker

History: None

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

The Complainant made an offer on a property in Tennessee and based on the inspection report, the Complainant later withdrew the offer. The Respondent stated on the release the reason for the withdrawal was because the Complainant's property did not sell. This is incorrect. The Complainant's home was sold in June 2020 prior to the Complainant making an offer. The two previous offers had failed due to financing. The Complainant alleges the Respondent has misrepresented the condition of the home in the description of the property. The Complainant alleges the Respondent is unethical and should be sanctioned.

The Respondent provided a response and stated the Respondent did not have any direct communication with the Complainant Buyer. The Respondent denies any wrongdoing and has been a licensed real estate agent for the past 12 years. There was an initial error in the acreage of the property which the Complainant's real estate agent pointed out and the Respondent immediately corrected it. The Respondent relied on the back office to do the initial entry into the Multiple Listing Service ("MLS"). This was a typo. It read 1.60 acres instead of the correct acreage of 1.06 acres. Following this initial issue, there was offer made and an agreement was bound. The provision in the contract concerning the inspection stated the inspection was to be done within 14 days after a binding agreement and there was a five (5) day resolution period to negotiate repairs. The agreement was also contingent upon the sale of the Complainant's property. On July 7, 2020, the Complainant sent a repair/replacement proposal during the inspection period. The Complainant asked for several repairs to be made, including repairs to the washing machine drain line, payment by the Sellers for a professional to inspect the roof, replace missing or hanging down insulation, trees to be cut back from the power line, inspection of the drain field by a professional, payment to a waterproofing company to inspect the property, etc. The Complainant

also sent another repair/replacement proposal #2 on July 8, 2020 asking for the home to be treated for active termites, which had been found in the termite inspection report. The Sellers did not agree to all of the items in the repair/replacement proposals. The Sellers submitted an amendment on July 8, 2020 to repair the washing machine, replace missing insulation and to have the home treated for termites. The Complainant refused and the parties could not come to an agreement and a Mutual Release of Purchase and Sale Agreement was executed on July 9, 2020. The reason marked was “inspection contingencies” on the release.

There is no evidence the Respondent violated the laws of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel’s recommendation.

- 19. 2020070451**
Opened: 10/19/2020
First Licensed: 9/1/2016
Expires: 8/31/2022
Type of License: Principal Broker
History: None

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

The Complainant was released from the brokerage firm after not attending a “boot camp” session held by the Respondent. This was a required course. The Complainant did not believe the course would help the Complainant’s business model. Following the release, the Complainant could not access any e-mail or log into anything for client communications or access any files. The Complainant requested this be reenabled in order to gather the files, but the Respondent refused and the Complainant was told to indicate specifically which files needed to be sent. The Complainant asked all e-mails be forwarded and to send everything on the Complainant’s Google drive. The Respondent did not provide a direct response to the request.

The Respondent provided a response and stated there are certain guidelines and policies for all affiliate brokers and these guidelines are made clear from the beginning. The agreement of the office policies and guidelines was voluntarily executed by the Complainant on May 26, 2020. The training is a required for every affiliate broker and it was even made available by Zoom for the Respondent. The Complainant’s e-mail and access was disabled to protect confidential information and the Complainant wanted unfettered access to all documents such as client lists, etc. The client files and communications belong to the brokerage and are not the Complainant’s files. The Complainant also executed the Affiliate Confidentiality and Non-Disclosure Agreement on May 26, 2020 and states the Respondent owns all confidential information including client files and potential client lists. The Respondent was willing to provide all information if the Complainant provided a specific list of all personal items and other documents from the e-mail

account. Instead, the Complainant provided a broad and vague list requesting all client files rather than specific files and other personal information. The Complainant was not permitted to undertake any real estate rentals under the brokerage license or take on new clients until the onboarding training had been completed. The onboarding training was for a two-week period and when the Complainant joined the brokerage firm, the Complainant was properly informed and agreed in writing to these terms. The Respondent does not sell real estate but assists prospective renters to find an apartment in the area and the licensees affiliated with the Respondent do not sell real estate. As principal broker, the Respondent must exercise adequate supervision and control over all licensed affiliate brokers.

This is an employment dispute between the parties and the Respondent has not engaged in any acts or conduct that violates the Tennessee Real Estate License Act or the Rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

20. 2020062361

Opened: 9/8/2020

First Licensed: 4/18/2017

Expires: 11/12/2022

Type of License: Affiliate Broker

History: None

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

The Complainant alleges the Respondent tells the public the Respondent holds a real estate license in Tennessee. The Respondent shows properties to Chinese Americans.

The Respondent provided a response and stated the real estate license has been renewed. The license status has been verified and confirmed. The Respondent is properly licensed and holds a valid Tennessee Real Estate Affiliate Broker license.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

21. 2020062611

Opened: 9/8/2020

First Licensed: 3/25/2002

Expires: 6/10/2021

Type of License: Principal Broker

History: 2014 Consent Order; 2017 Consent Order

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

The Complainant alleges on October 31, 2019, the Respondent sent a text indicating the selling documents were ready to be signed. The selling documents were sent to the proper e-mail. There were still repairs that needed to be completed before the home was placed on the market. In April 2020, the house was placed on the market for a listing price of \$450,000. On June 5, 2020, the Respondent texted the Complainant about reducing the price to \$395,000. The Complainant responded "No." The Complainant was advised by a friend the price of the home was reduced by \$50,000. On June 25, 2020, the Complainant contacted the Respondent about the reduction in price and the Complainant had not authorized the reduction. The Respondent advised the Complainant's ex-husband had been notified and allowed the reduction in price. The Complainant had never been sent the e-mail. Pursuant to the Marital Dissolution Agreement, the decisions on the sale of the home, including modification of the listing price, repairs or improvements to be made, acceptance of the offer, would be decided in a three-way vote between the parties and the real estate agent, with the majority of the two votes deciding the matter. The parties were to commemorate their vote in writing via letter or e-mail to the real estate agent at least 24 hours prior to the three-way vote. The party was to authorize the real estate agent to act upon the results of any three-way votes. The real estate agent was acting as the deciding vote on the home. The Complainant's ex-husband was aware the old e-mail address that the Respondent sent the request to reduce the price was sent to was no longer in use and the Complainant had instructed the Respondent to only use text when contacting the Complainant, however, the e-mail was inadvertently sent to the wrong e-mail address. On June 26, 2020, the Complainant asked the Respondent to forward the original e-mail to the Complainant with a time stamp to provide proof and the Complainant also provided an updated e-mail address.

The Respondent provided a response and stated the first time the Respondent was advised of the Marital Dissolution Agreement was on June 8, 2020. The Respondent was not advised on the original date of October 2019 of an impending divorce of the parties or of the existence of a marital dissolution agreement. The Respondent obtained approval of the price reduction from the spouse and the Complainant was copied on all e-mails. The Respondent was unaware the parties were not communicating between themselves or through their respective attorneys. The Respondent only received an actual copy of the Marital Dissolution Agreement on August 25, 2020. The Respondent was not aware of the Complainant's nonfunctioning e-mail and tried to communicate by text as much as possible except in the situation where the request to reduce the price documents had to be submitted to the Complainant.

The Respondent has not violated the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission. The Respondent obtained the proper approval to reduce the asking price of the property.

Recommendation: Close.

Board Decision: The Commission accepted counsel’s recommendation.

22. 2020064961

Opened: 9/8/2020

First Licensed: 9/21/2006

Expires: 9/20/2022

Type of License: Affiliate Broker

History: None

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

The Complainant began working with the Buyer on December 15, 2020 and a Buyer’s Agreement was signed. The Buyer’s Agreement did have a 90-day carry over clause. The agreement began on December 15, 2019 and was set to expire on January 3, 2020 with a 90-day carryover period, the final date of termination was to be April 2, 2020. The Respondent showed the property and a purchase offer was made. The loan officer had requested tax documents from the Buyer. The Buyer’s ex-wife, also a realtor would not agree to provide the necessary tax documentation because the Buyer did not use the ex-wife as his realtor. The Buyer was unable to obtain the necessary financing because of the withheld tax documents. The Respondent then persuaded the Buyer to use the ex-wife/Respondent as his realtor and the Respondent would provide the necessary tax documents for the purchase. The sale occurred on March 13, 2020 with the Respondent as the Buyer’s real estate agent. The Respondent is entitled to the commission under the sale since the Buyer was still under the terms of the agency agreement at the time of the new contract with the Respondent.

The Respondent provided a response and stated the Buyer and the Respondent obtained a divorce in November 2019 and the Respondent had obtained a \$50,000 HELOC loan against the current home in order to buy out the ex-husband. The Respondent had been married to the Buyer for approximately eight years. The Respondent claims the Buyer and the Respondent had agreed the Buyer would use the Respondent as the real estate agent when the ex-husband Buyer was ready to purchase a home. During the HELOC process, one of the ex-husband’s friends contacted the ex-husband Buyer and stated he wanted the ex-husband Buyer to go look at home with him. The ex-husband liked the home and wanted to make an offer on the property immediately. The MLS listing had stated that the only bank that would finance the property was a specific bank and all buyers needed to contact them to have the property financed. The bank denied the loan. The ex-husband Buyer contacted the Respondent and stated he was unable to purchase the property. The Respondent arranged to get financing on a basement home and the ex-husband was able to obtain financing and an offer was written on the property. The ex-husband had to pay \$5,000 more on the second contract because the Sellers did not want to be misled by the first contract.

The Respondent stated the ex-husband Buyer had been working with another agent but the agent had not been able to secure the necessary financing for the ex-husband Buyer. The agent did not offer to work through another lender or any other options for the property. The Complainant only wanted the ex-husband Buyer to look at other properties. The ex-husband did provide the Respondent with the Buyer’s Representation Agreement and it was not signed and it did not have

a percentage amount filled in for the commission amount. The Respondent negotiated a new price with the Sellers, managed all inspections, communicated with the lender on all paperwork, and handled all appraisal issues and the Respondent was able to secure a property for the ex-husband Buyer.

Recommendation: Authorize a contested case formal proceeding and assess a civil penalty of \$2,000 against the Respondent for violations of Tenn. Code Ann. § 62-13-604 [It is unlawful for a real estate licensee, a relocation firm or a firm with a corporate relocation policy or benefits, or anyone on behalf of any such licensee or firm, to counsel a client of another real estate licensee on how to terminate or amend an existing agency contract.] and Tenn. Code. Ann. §62-13-312(10) [Inducing any party to a contract, sale or lease to break the contract for the purpose of substitution in lieu of the contract or a new contract, where the substitution is malicious or is motivated by the personal gain of the licensee]

Board Decision: The Commission accepted counsel's recommendation.

23. 2020067861

Opened: 9/8/2020

First Licensed: 1/29/2015

Expires: 1/28/2021

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 did not inform the Complainant the earnest money deposit ("EMD") had not been received in a timely manner and cost the Complainant's an additional \$10,000 to \$15,000. The Complainant entered into a contract to sell their property on April 8, 2020 with a \$500 earnest money due on April 23, 2020 and to be deposited in an escrow account. The Complainant had never been advised the earnest money had not been deposited until the day before the closing when the Complainant was asked to sign a legal document stating the earnest money had been received on June 5, 2020. The Complainant was also not advised the Respondent had gone from being the designated agent for the Seller to the Facilitator as stated in the contract. If the Complainant had been informed the earnest money had not been deposited, the Complainant would have opted out of the contract and obtained their own septic system approval and it would have increased the value of the property by \$10,000. The Complainant stated the Respondent does not deserve the Commission of \$5,800 and requested compensation for that amount. The Complainant is also asking for compensation of the \$10,000 for the loss of the increased value of the lot by having a three (3) bedroom septic system.

The Respondent provided a response and stated the error in depositing the earnest money deposit was due to the confusion caused by the COVID-19 pandemic and the shutdown of the Respondent's office. The Buyer was instructed to send the earnest money deposit in an e-mail on April 8, 2020 and had verbally stated the money had been sent. The contract had a special

stipulation for possible COVID-19 delays with the survey and the septic permit contingencies. The Respondent stated the change from designated agent to facilitator was the fault of the Sellers and an oversight. The Respondent attached a Confirmation of Agency. This was the second one signed by the Sellers. The Sellers discussed with the Respondent about the pros and cons of going through the steps to expand the septic system and declined to make those changes. Once the Complainant obtained the upgraded permit, the increased value can be realized by the Complainant.

Recommendation: Letter of Warning to the Respondent concerning escrow amounts being deposited with the firm.

Board Decision: The Commission elected to send a Letter of Warning with specific language regarding change of status in agency and to open a complaint against the Principal Broker for delay in disbursing escrow funds.

24. 2020068441

Opened: 9/8/2020

First Licensed: 6/14/2016

Expires: 6/13/2022

Type of License: Affiliate Broker

History: None

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

The Complainant had to withdraw the contract on May 7, 2020 following an inspection contingency. The Complainant had not heard from the Respondent concerning the earnest money after waiting more than two weeks and after the check had cleared. The Complainant contacted the Respondent on May 25, 2020 concerning the status of the earnest money and the Respondent was not aware of the status and would check on it.

The Respondent stated there was a mix-up in communication and the Respondent would obtain the check for a refund of the earnest money deposit the following day. The Respondent finally provided the check 21 days after the Complainant had withdrawn the contract.

The parties have resolved the issues concerning the earnest money and the Complainant has received the return of all earnest monies.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

25. 2020058031

Opened: 9/8/2020
First Licensed: 3/19/2019
Expires: 3/18/2021
Type of License: Real Estate Firm
History: None

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

The Complainant rented an apartment from the Respondent and alleges the Respondent unfairly charged for replacement of carpets with no evidence to support the damage was caused by the Complainant. The Complainant was also charged for the replacement of blinds. The Complainant was to request and coordinate with the Respondent to have an inspection of the premises done prior to termination of the lease and after the inspection, the resident is given an opportunity to remedy any identified deficiencies prior to the termination of the lease. The Complainant requested a walk through and the Respondent denied the request in violation of the lease agreement. The Respondent refused to communicate to arrive at an amicable resolution and the Complainant alleges the Respondent should not have charged for the replacement of the items.

The Respondent failed to provide a response to the complaint.

Recommendation: Authorize a contested case proceeding and assessment of a civil penalty in the amount of \$1,000 for failure to provide a response in violation of Tenn. Code Ann. § 62-13-313(2) [a licensee shall within 10 days to file an answer to the complaint].

Board Decision: The Commission accepted counsel's recommendation, but also voted to open an administrative complaint against the Principal Broker.

26. 2020060201
Opened: 9/8/2020
First Licensed: 5/2/2019
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 alleges the Respondent's real estate agent took advantage of the Complainant because the Complainant was a first-time homebuyer and did not properly disclose the condition of the property. The Complainant alleges the Respondent violated the fiduciary duties to serve the real estate profession and serve the Nashville community.

The Respondent provided an extensive response concerning the transaction. Upon speaking with the listing agent concerning the property in question, the listing agent indicated a cash offer without contingencies had already been submitted. The Respondent pulled the stats from multi-units in

the zip code, etc. The Respondent contacted the Complainant and advised of the situation and inquired as to whether the Complainant still wanted to purchase the home. The Complainant indicated the goal was to purchase the home, live on one side and renovate the other side and raise the rent and repeat. The Complainant wanted the rental income to cover all operating expenses and debt-service, while finding a premium location that had appreciation. The Complainant wanted to build equity from the investment and receive additional funds from renting the other unit. The rental comparables were \$900 to \$950 as opposed to the \$700 the units were currently being rented for. An offer was bound the next day on December 20, 2019 and the inspection was done the following Monday. The Complainant was made aware of the inspection and told to have some contractors and subcontractors ready to address any issues in the report. The Complainant did not have anyone to address the issues and did not want to spend money on the service and other charges. The Respondent assisted the Complainant in coming up with the projected expenses and rental comps for the area. The Respondent did indicate to the Complainant that the disclaimer document clearly states that the Complainant has not relied on the advice, casual comments or verbal representations of any real estate licensee relative to any of the matters itemized above or similar matters. The Respondent stated that with every investment there is always inherent risk and the Respondent cannot guarantee an exact amount of return on investment. The Respondent provided the objective data and information, however, the Complainant is the ultimate decision maker concerning the purchase of the property. After all the information was provided to the Complainant, the Complainant wanted to move forward with the offer. The due diligence period was falling during the Christmas holiday week and many businesses are closed and this may cause some delays in completing the transaction. As a result, there was a 21-day due diligence period and after some negotiation, the Seller agreed to a 17-day period. None of the contingencies were waived and the Complainant intended to close in 30 days. The Complainant had budgeted for closing costs knowing there was another cash offer on the table. There was nothing dishonest in the contract and it even protected the client through all contingencies and gave the Complainant a chance to win the offer. The Complainant wanted \$5,000 in closing costs but the Seller agreed to \$2,500. The Complainant wanted to provide some compensation to the broker that initially showed the property to the Complainant and the Respondent mentioned a showing fee, but the other real estate agent did not have a legal right to any fees. The Respondent did not engage in any acts that did not protect the Complainant throughout the course of the transaction.

The Respondent did not engage in any acts or conduct that were was a breach of fiduciary duty or any violation of the Tennessee Real Estate Act or the Rules and Regulations of the Tennessee Real Estate Commission.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

27. 2020059611
Opened: 9/14/2020
First Licensed: 2/4/2005
Expires: 9/12/2021
Type of License: Affiliate Broker (Retired)

History: None

Complainant is a North Carolina resident and the Respondent is a licensed Tennessee Affiliate Broker in retired status.

The Complainant purchased a timeshare from the Respondent on May 5, 2010. Since the purchase, the Complainant has encountered many problems and no longer wants to maintain the contract with the Respondent. The Complainant wants to immediately terminate the contract and void any further obligations under the contract. During the Respondent's timeshare presentation, the Complainant was promised several things that never occurred such as: a free shopping spree, free meals, ability to vacation anytime and anywhere, etc. During an upgrade on June 1, 2011, the Complainant was stuck in a meeting for over two hours. After the upgrade, the Complainant never used the timeshare. The Complainant has been stuck paying for something the Complainant cannot use. The Complainant also had medical issues that prevents the Complainant from using the timeshare. The Complainant is not happy with the investment and it is not a sound investment.

The Respondent provided a response and stated the Respondent has never been involved with or associated with any timeshares at any point during the Respondent's real estate career. The Respondent stated this is a case of mistaken identity.

Also, the rescission period has expired in the contract and the statutory period for the Complainant to bring a civil action on the validity of a contract of purchase and/or a rescission of the contract or damages must be commenced within four (4) years after the date of the contract of purchase pursuant to Tenn. Code Ann. § 66-32-119.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

28. **2020061831**
Opened: 9/14/2020
First Licensed: 4/30/2018
Expires: 4/29/2022
Type of License: Affiliate Broker
History: None

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

The Complainant befriended the Respondent in July 2018 through a mutual friend. The Complainant helped the Respondent with various odd jobs around the house and helped the Respondent paint and decorate a new property. During this time, the Respondent wanted to help the Complainant purchase a home and encouraged the Complainant to save money for a down payment on a home. The Respondent continued to send listings of homes. In April 2020, the Respondent took the Complainant to see a home and the Complainant placed an offer on the home.

The offer was declined. The Respondent showed some more homes and the Complainant placed another offer on a home. There were no contracts or documents signed between the Complainant and the Respondent. The Respondent assisted the Complainant with arranging the home inspection and appraisal. During the final walk through prior to closing, there were several issues with the home. The upstairs thermostat was not working property, there was water in the basement, the dishwasher had flooded in the kitchen. The Complainant was unsure how to proceed and the Respondent helped to arrange to have the repairs done on the home prior to the closing. The Complainant did not want to continue with the purchase of the home, but the Respondent reassured the Complainant that everything would be resolved. The Complainant went to the closing and signed all the necessary documents. Later that month, the Complainant had problems with the HVAC unit, plumbing, pests, electrical system, hot water heater, and foundation. The Complainant alleges the Respondent preys upon young professionals and takes advantage of them.

Respondent provided a response and stated the Complainant and the Respondent had become close friends and the Complainant was seeking the advice and guidance of the Respondent in purchasing a home. The Respondent assisted and coached the Complainant throughout the home buying process. The Respondent never forced the Complainant to purchase the home and the Complainant made the decision to purchase the home. The issues the Complainant experienced were related to the maintenance and upkeep of the home and later there were some issues related to the items the Seller had repaired/replaced prior to the closing. The Respondent provided assistance to a friend and client in the purchase of a home and the Respondent did not engage in any wrongdoing.

There were no violations of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission by the Respondent.

Recommendation: Close.

Board Decision: The Commission accepted counsel's recommendation.

29. 2020070281
Unlicensed
History: None

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

The Complainant entered into a lease contract for an apartment unit with a corporate landlord on June 1, 2020. The Complainant was instructed to deal with the Respondent property manager. When the Complainant moved into the unit, there were several issues. There were several items in the unit that needed to be repaired. The parking was a problem and the neighbors had openly used alcohol and drugs. The Complainant contacted the Landlord and was screamed at by the Landlord and told to contract the property managers. The managers refused to assist the Complainant and alleges the managers began to harass the Complainant and family. The Respondent made false and slanderous comments to the Complainant's guests and neighbors. The Complainant alleges the managers instructed neighbors to commit violent acts against the Complainant. The manager would also leave harassing notes on the Complainant's door several

times a week and made verbal threats to kick down the Complainant's door, tow the Complainant's vehicle and refused to accept rental payments. The manager often threatened to contact the police and claimed to know the police. The Complainant alleges the Respondent manages, collects rents, holds escrow money, and oversees several apartment complexes in different property locations in the area. The Complainant claims the Respondent violated state and federal privacy laws by providing friends and neighbors with the Complainant's personal information that had been provided to the managers when leasing the apartment.

The Respondent did not file a response to the complaint.

The Respondent falls under the exemption stated in Tenn. Code Ann. § 62-13-104(a)(1)(E)[A resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.]

The Respondent is not subject to the jurisdiction of the Tennessee Real Estate Commission and falls under an exemption for licensure under the Tennessee Real Estate License Act.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

30. **2020064871**
Opened: 9/14/2020
First Licensed: 6/18/2014
Expires: 9/5/2021
Type of License: Principal Broker
History: None

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

The Complainant showed some homes to a client whose husband was away for military duties. The client would video conference her husband and take photos of the showings. The Respondent listed a property that was shown to the client and the commission for the Buyer's agent was 3%. After showing this home to the client three times, the client's brother (who lived in another state) contacted and asked if the Respondent would provide a referral fee to the brother. The Complainant declined because the Complainant had been found by the client through Facebook.

The Complainant drafted the offer and all necessary documents for an offer on May 12, 2020. Suddenly, the Complainant's client suddenly stated that the brother, who was a real estate agent in another state, did not want the Complainant's client to sign a Buyer's Exclusive Representation Agreement. The client stopped responding to the Complainant. After a few weeks the house went under contract, so the Complainant contacted the Respondent. The Respondent stated the house

was under contract and the stated the Complainant's original client was the Buyer and had contacted the Respondent and asked if he would represent both sides and they would have a referral attached to the agreement. The Complainant was clear that this was the original potential client and the Complainant had found the property for the Buyers. The Respondent was apologetic and stated it was unfortunate the client did not sign an agency agreement with the Complainant. The Respondent indicated the deal was problematic and it probably would not close. The Complainant checked the tax card and found the home closed on June 30, 2020. The Complainant had shown the home to the client less than two months earlier for the first time. The Complainant alleges the Complainant is due commission for this sale from the Respondent.

The Respondent provided a response and stated the Respondent was contacted about a referral for one of the Respondent's listings. The referral was from the niece of an out-of-state real estate agent. The listing in question had quite a bit of activity during this period. The Respondent had asked the referral client if they were represented and if they signed any type of representation agreement with another agent and they stated the client had not. The Respondent spent quite a bit of time working with the client on getting inspections, quotes and negotiating items with the Sellers. The Complainant contacted the Respondent a month later and asked the names of the buyers of the home that was under contract and the Complainant indicated this was the same family the Complainant had shown the home to a month earlier. The Respondent explained that the Respondent had checked on whether there was a Buyer's Representation Agreement and the client had indicated there was not an agreement. It appears this family had been working with multiple real estate agents in the area for the past several months. The Respondent indicated the Respondent was not part of any deceptive scheme to take away the Complainant's client and steal the commission from the Complainant. The Respondent represented the Seller and was entitled to the commission for the selling side of the transaction and the Respondent had spent a significant time handling this transaction for both the Buyers and the Sellers. The Respondent had even drastically reduced the commissions on both sides to complete the transaction.

This matter involves a dispute between the parties concerning the commission in the transaction and outside the purview of the Tennessee Real Estate Commission. The Respondent has not violated the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

- 31. 2020065151**
Opened: 9/14/2020
First Licensed: 4/27/2015
Expires: 4/26/2021
Type of License: Affiliate Broker
History: None

Complainants are Tennessee residents and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainants stated the Respondent was the Complainant's agent. During the period between execution of the contract and the closing date, the Complainants allege the Seller and the Respondent had conspired to defraud the Complainants by deception and non-disclosure. The Complainants had to replace the original electrical shut-off for the well pump within one week of the closing. This was left in place after the pump and tank were replaced. The water pipes and manifold were in the laundry room entry and the Sellers had indicated they were inactive. The Complainants had to replumb the water into the home. The carport had been represented as having a new roof. When the Complainants were in the process of removing the rotted soffits, the Complainants discovered the entire right front corner of the roof was completely rotted away and just covered up with metal roofing. The soffits on both sides could not be replaced without having to add new truss tips to attach them to because they were all rotted out. This was a major expense for the Complainants. Also, the electrical lighting in the garage was also a problem and it appeared only two lights were working and one of the light fixtures caught fire. The wiring in the carport had not been done correctly and there was only a single junction box and several of the connections had been covered with electrical tape. Some of the connections had a wire nut on it. The Complainants had to completely rewire the garage. The Complainants complained this was gross neglect and failure to disclose by the Respondent. The well pump was in a wet location and the building code requires it to be on a GFCI circuit or a GFCI disconnect. This was another case of the gross neglect and the Respondent's failure to disclose.

The Respondent provided a response and stated he provided the Complainants with a video tour of the home initially. The Complainants were very interested in purchasing the property after viewing the home online and by video. The Complainants decided to make an offer and the Respondent later received an e-mail about the latent defects from the Complainants which the Respondent believed the inspection and appraisal should have revealed all the problems identified by the Complainants. The Respondent does not have knowledge about how the items should have been working or functioning. The Respondent did not have any knowledge about the water pipes being bypassed and a home inspection would have revealed any issues with the laundry room pipes. The carport did have a new metal roof which had been shown to the Respondent. The Respondent did not have knowledge about what was underneath the roof. The Respondent stated the lighting had always been working in the garage/carport and there was never an electrical issue. The well had also been working at the home since the home was built and this was prior to the Seller purchasing the home. Also, a new pump had been installed. The home had been built in 1965 and the well had been dug prior to the home being built and was there with the original home. The Respondent did not provide any misleading information to the Complainant and the Complainants made all the decisions concerning the purchase of the home.

The Respondent has not violated any of the laws of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

32. **2020069101**
Opened: 9/14/2020
First Licensed: 4/25/2013
Expires: 7/14/2022
Type of License: Real Estate Broker
History: None

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

The Complainant alleges a police report was filed on August 16, 2020 against the Respondent alleging threats of criminal vandalism. The Complainant received multiple texts from the Respondent threatening to dump trash on the Complainant's property. The Respondent also negotiated and hired an employee to clean out the listed property. The Respondent demanded the employee be paid from the closing settlement even though the work was never contracted by the Complainant. The Respondent sent demeaning, threatening, or abusive messages to the Complainant throughout the process.

The Respondent provided a response and stated on August 12, 2020, the Respondent contacted an employee to help to remove a rundown RV camper from the back of the home listed for sale. The Buyer had included the removal of the camper in the contract. The employee agreed to remove it for \$400. After the camper was removed, the Complainant contacted the employee to help to load a moving truck and unload it at a storage building for an additional \$250. The invoice for these services was provided to the title company to be included in the settlement statement. The Complainant wanted these amounts due to the employee to be included from the closing amounts. The Respondent asked the employee if the amounts owed could be paid at a later date from the closing proceeds. The Complainant had always agreed to pay these amounts. Since this was a foreclosure situation, the Respondent had assisted the Complainant as much as possible to make sure the home was sold. The Respondent also assisted in helping the Complainant postpone the foreclosure at least twice. The Respondent paid the employee from his own pocket since the Complainant ultimately refused to pay the employee for the services rendered.

This is a contractual dispute between the parties and the Respondent has not violated any of the laws of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

- 33. 2020078161**
Opened: 11/10/2020
First Licensed: 7/23/2014
Expires: 7/22/2022
Type of License: Affiliate Broker 330321
History:

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

The Respondent was the Complainant's real estate agent. On August 9, 2020, the Complainant entered into an agreement to purchase a home. The Respondent advised the Complainant that the Respondent had a good working relationship with the Seller's real estate agent. The Complainant had a good working relationship with the Respondent. During a walkthrough of the inspection report with the Respondent on September 1, 2020 and the Respondent's father who was the contractor who had done the flip of the home was also present. The Complainant had pointed out some items that needed to be repaired and the Respondent's father agreed to have the items fixed. There was an estimated date for the closing was September 11, 2020. All repairs were to be completed by the closing date. The closing date had to be extended. The Respondent scheduled another walkthrough date for September 14, 2020. The items that were to be repaired had still not been repaired. The Complainant advised the Respondent the Complainant did not want to close. The Respondent assured the Complainant that the Complainant should not worry and to sign the documents and would try to have the items fixed. The Respondent also asked for the Complainant to make a list of the items that still needed to be repaired. The repair addendum had a date of September 30, 2020. As of October 5, 2020, the repairs were not completed and there are still five items on the original list that had not been completed.

The Respondent provided a response and stated the Complainants made an offer on the property on August 9, 2020 and it was accepted. The original closing date was delayed because there were issues with obtaining an appraiser to appraise the property. On September 1, 2020, all parties and their real estate agents met at the property to create a list of items that the Buyers needed to have repaired and the Sellers agreed to make the repairs. The Buyers also requested a temporary occupancy agreement in order to allow the Buyers to move into the property before the closing. The Complainants moved into the property on September 18, 2020 and the transaction closed on September 24, 2020. The Sellers returned to the property after the closing and met with the Buyers and the Respondent and the Complainant Buyers had created a new list of repairs that the Complainants had wanted completed. A new Repair Addendum was created on September 30, 2020. The Sellers refused to sign the repair addendum to complete the additional repairs. The Sellers did complete the repairs by October 9, 2020. The Respondent also stated the Complainant was not a party to the transaction, but the Complainant's husband and mother-in-law were the actual purchasers of the property. Also, the Respondent was not the real estate broker for the transaction. The Respondent's husband was the designated agent for the transaction. The

Respondent was involved in showings and communications with the Complainant and the Complainant's husband.

The Complainant and the Respondent were not the actual parties in this transaction. Also, all repairs have been completed. The Complainant is not a party to the real estate transaction and the complaint is not valid.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

34. 2020070701

Opened: 9/14/2020

First Licensed: 9/16/2016

Expires: 9/15/2022

Type of License: Affiliate Broker

History: None

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

The Complainant was purchasing property, however, the Respondent refused a termite inspection which was the last day of the agreed inspection period on the contract. The Respondent later agreed to allow the inspection on Tuesday, September 8, 2020, but the Respondent wanted the Complainant to sign an addendum. The Complainant sent the revised addendum with the changed date for the inspection. The Respondent responded and stated the client could not respond because they needed to take it to their attorney. The Respondent wanted to give the client until the evening of September 8, 2020. This would mean it would be beyond the agreed upon inspection period and the Complainant would not agree. The Complainant stated an answer was needed from the Seller by 5 pm on September 5, 2020. The Respondent never provided a response and Respondent did not get back to the Complainant on the last day of the inspection period. The Complainant withdraw the contract. By not allowing the inspection to take place on Saturday, it violated the contract and it took too long to iron out all the issues during the inspection. When the Complainant first viewed the home, the crawl space was locked so the Complainant was unable to see inside. During the inspection, the Seller was present and the lock was removed. There were puddles of water in the crawl space and water seepage in the foundation. This had not been disclosed. The Complainant alleges the Respondent purposefully delayed the inspection and this caused the Complainant to lose a great deal of money and the deal. The Respondent purposefully stalled to delay the termite inspection and the inspection never should have been denied by the Respondent.

The Respondent provided a response and stated the contract was bound on August 16, 2020 and there was a 15-day inspection period with a five-day resolution period. The home inspection had been completed on August 24, 2020 and the repair and replacement proposal was submitted on August 26, 2020. The inspection period had ended and five-day repair/replacement resolution period started. The resolution period was to end on August 31, 2020. The Sellers responded and

signed the repair/replacement amendment on September 1, 2020. The amendment to the Purchase and Sale Agreement to a lower purchase price was signed by the Seller on September 1, 2020 and the Buyers signed it on September 2, 2020. The termite inspection was requested to be completed by September 2, 2020 and the Respondent agreed but stated it would be outside the inspection period. After it had been scheduled, the Respondent contacted the Seller and the Respondent was instructed to write an addendum to the contract for the Seller to sign. The termite was scheduled for September 2, 2020 and the termite inspector does not perform inspections on Saturday. The Respondent provided a letter from the termite inspector. The issues were all resolved within five days which was the exact period set forth in the contract. The Complainant did submit a renewed addendum and it stated the Sellers only had until September 5, 2020 to sign it. The Sellers wanted to consult their own attorney to discuss the document and this was a holiday weekend. As a result, the termite inspection was scheduled for Tuesday, September 8, 2020.

The Respondent did not violate the Tennessee Real Estate License Act and the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

35. **2020046001**
Opened: 9/14/2020
First Licensed: 6/19/2001
Expires: 11/17/2020
Type of License: Real Estate Firm
History: None

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

The Complainant alleges there were a select number of transactions in Tennessee that involve potential violations of the laws and rules of the Real Estate Commission because of the unlicensed activity of the Respondent's brokers. The Complainant alleges the Respondent's marketing director is also a broker of record for the Respondent and has a Georgia real estate agent, but not a valid Tennessee real estate broker license. Also, the broker of record for three other transactions did not have a Tennessee license. Also, there were several team members on the sales team that did not have a Tennessee license.

The Respondent provided a detailed response and stated the Complainant is a former broker whose employment was terminated on December 3, 2019. The Respondent stated that licensed Tennessee brokers are involved in all transactions at issue. The Respondent has not knowingly permitted any of its real estate brokers to engage in unlicensed real estate brokerage activity in Tennessee. The marketing director of the Respondent was terminated on September 6, 2019. The role was eliminated due to overlap in the areas of focus across the capital markets business areas following the acquisition of certain property. The Respondent provided proof that in all transactions in

Tennessee there were one or more licensed Tennessee real estate brokers involved in the transactions.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

36. **2020063331**
Opened: 9/14/2020
First Licensed: 6/26/1995
Expires: 10/14/2021
Type of License: Real Estate Firm
History: None

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

The Complainant had a purchase agreement with the Respondent on March 3, 2020 from Respondent's client to purchase a one-acre tract of commercial property owned by the Complainant. The property was set to close by April 15, 2020 and the earnest money was given to the Respondent by the Buyer. The Buyer had an issue and an extension was given until June 30, 2020. On June 11, 2020, the Complainant was notified by the Complainant's real estate agent that the Buyer decided not to purchase the land. On July 15, 2020, the Complainant spoke with the Respondent about the process to release the purchase and disburse the earnest money. On July 20, 2020, the Complainant received the release and disburse agreement which had been signed by the Buyer. On July 22, 2020, the Complainant completed the form and sent it back to the Respondent. On August 4, 2020, the Complainant contacted the Respondent to inquire about the status of the earnest money since the Complainant had not received it and the Respondent indicated the check would be sent on August 5, 2020. Between July 22, 2020 and August 18, 2020, the Complainant's agent and the Complainant reached out to the Respondent on several occasions to obtain an update on the issuance of the funds and the Respondent has failed to respond in a timely fashion.

The Respondent provided a response and stated the Respondent obtained the necessary signatures for the release and it appears the Respondent did not get a signed release from the Complainant. There was a miscommunication. The Respondent had e-mail issues because of a changed e-mail address and a change in carriers. There were also several missed phone calls because of the change in carriers. The Complainant has now received the earnest money.

The Complainant submitted a follow-up communication to the Commission stating the Respondent has sent the earnest money amounts and the Complainant no longer wishes to proceed with the complaint.

The parties have resolved all issues related to the earnest money deposit.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

- 37. 2020065541**
Opened: 9/14/2020
First Licensed: 1/9/2008
Expires: 1/8/2022
Type of License: Real Estate Firm
History: 2017 Consent Order

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

The Complainant alleges the Respondent has engaged in fraudulent accounting practices and the accounting ledgers/statements and writing on the ledgers are deliberately misleading. The Complainant alleges a breach of contract by the Respondent occurred on August 6, 2020 and Respondent refused to terminate even the Complainant exercised the right to buy out the contract. The Complainant also alleges the Respondent engaged in unlicensed activity. The Complainant alleges the Respondent’s property manager was not properly licensed and allowed the property manager to sign contracts. The Complainant alleges the Respondent engaged in negligence by failing to keep a proper accountable ledger and there was \$55.00 not properly accounted for in the ledger. The Respondent also charges the Complainant for tenant damage and repairs. Items such as carpet cleaning, landscaping services, plumbing, key lock changes, etc. should be charged to the renter. The pet fee should be sent to the owner and not to the property manager. The Respondent has also failed to properly return earnest money to the Complainant and the Respondent was terminated on August 6, 2020 and on August 10, 2020, the Respondent still has refused to terminate the contract.

The Respondent provided a response and denies any fraud. The Respondent believes the Complainant is not familiar with the bookkeeping program used for property management and has become confused. The Respondent has provided the Complainant with a complete bookkeeping statement. The property management program used is called Appfolio and the Respondent provided additional details to the Complainant to help understand the statement. The Respondent provided a breakdown of the total funds received when the accounting program had been changed in 2017. There was a total of \$56,404.11 of income received and the owner was paid a total of \$49,231.05. The management fees received was \$5,788 and invoices paid were \$1,385.06 which total \$56,404.11. The Respondent stated there was no fraudulent activity in the owner statement and the Respondent tried to explain the statements on multiple occasions to the Complainant. The Owner Statements are generated by a property management program called “Rent Manager.” The Respondent also provided a breakdown of the amounts on those statements. The Respondent stated the Complainant was sent the funds every month and the account is adjusted accordingly. Also, the Respondent did not refuse to terminate the contract. The Complainant terminated the management agreement on August 10, 2020, however, the terms of the management agreement required the Complainant to provide 30 day notice and the Complainant did not provide the proper notice. The Respondent was aware the Complainant was planning on listing the property for sale at the end of the tenancy. The Respondent was unable to complete the final walk through because

the Complainant stated the Respondent could not enter the premises after terminating the contract. The Respondent had to disburse the security deposit to the tenant in accordance with the terms of the contract and the Complainant demanded the return of the keys and the security deposit. The Respondent was unable to turn over the keys and the security deposit to the Complainant and the Complainant became very aggressive and threatening to the Respondent. The Complainant became very argumentative with the Respondent and even went to see the tenant directly and called the Respondent while at the premises and began to demand the Respondent return the security deposit money to the tenants. The Respondent advised the Complainant would have to make the request in writing. The next day the Complainant called the Respondent and stated the Respondent was not to return the security deposit to the tenant because the house was "trashed." The Complainant sent photos of the outside deck with paint peeling and there was dry rot on the back patio door. The Complainant alleges this was not normal wear and tear. The deck had been redone before the tenants moved into the home. The threats from the Complainant continued and the Complainant continued to make demands to the Respondent. The Respondent's attorney made several attempts to contact the Complainant, but the Complainant would not respond. The security deposit was interpleaded with the court and the Complainant did not buy out the management agreement. As such, the Respondent was paid the normal management fee for August 2020. The management agreement is signed with the Complainant and is valid. The Respondent is a licensed real estate agent. The individual is properly licensed and the Respondent does not employ or engaged in any unlicensed activity. The lease was signed with the tenant and a property management staff person. The Respondent has kept a proper accounting of all funds received in and disbursed to the Complainant. The Complainant has made various demands for payment of \$40,000, \$45,000, \$48,000 and \$55,000 without any basis. The Complainant has also resorted to posting on social media claiming the Respondent owes the Complainant large sums of money. The Complainant has never been incorrectly charged any amounts for any expenses related to the maintenance of the property. The contract clearly provides the pet fee would be retained by the property management firm and the other expenses were items that the Complainant was required to cover under the terms of the lease agreement. The items the Complainant was charged was for routine maintenance to the home when it was vacant. There were some charges the tenant was responsible for when the toilet clogged, but there were other maintenance expenses the Landlord was responsible to pay. The deadbolts had stopped working and this was a charge for the Landlord to pay. This was a safety issue with the property and related to wear and tear of the property. The Complainant has threatened to make the Respondent's lives miserable and threatened to file multiple police reports with the city and the county sheriff. The Complainant has already filed two complaints with the local association of realtors against the Respondent and has already filed two prior complaints with the Tennessee Real Estate Commission. The Complainant continues to harass the Respondent and repeatedly calls the office to demand the return of monies. The Complainant's son has also called and demanded the return of monies. The Respondent managed the property for a five-year period and there was never any issues. The Respondent has always managed to rent the property for the Complainant whenever it became vacant and also increased the monthly rent rate during the last lease term. There had never been any problems with the management of the property until recently. The Respondent has provided the services as stated in the management agreement and has not engaged in any fraud and has properly accounted for all rental amounts and properly paid the Complainant all funds due to the Complainant during the entire property management period.

The Respondent has not violated the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

38. **2020069861**
Opened: 9/14/2020
First Licensed: 8/31/2017
Expires: 8/30/2021
Type of License: Real Estate Firm
History: None

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

The Complainant alleges the one-year warranty was submitted to the Respondent on October 30, 2019 and this was one day before the one-year warranty had to be submitted. To date, the warranty issues have not been completed and have only partially been completed. The Respondent has been ignoring the messages from the Complainant and the subcontractors working for the Respondent will have respond to complete the work.

The Respondent provided a response and provided an apology and acknowledged this matter has not been addressed. The Respondent immediately contacted the Complainant and has instructed all subcontractors to address all the issues for all work that was not properly completed under the warranty. The Respondent provided proof that the local subcontractors were immediately instructed to prioritize all matters related to the repairs needed by the Complainant. The items were immediately addressed and the Respondent has resolved all outstanding issues for the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

39. **2020071601**
Opened: 9/14/2020
Unlicensed
History: None

Complainant is a Texas resident and the Complainant is an unlicensed international entity.

The Complainant alleges the Respondent copied the Complainant's entire website and even took the names and pictures of the Complainant. The Complainant has sent a cease and desist letter in

February 2020 and the Respondent removed the name and picture. The Respondent is still copying the content of the Complainant's website but is using different names. The Respondent is advertising as a real estate company and does not have a license. The Respondent is trying to make timeshare owners pay money up front to sell the timeshares and is engaged in scamming individuals. The Complainant has also opened a complaint with the Nashville, Tennessee Better Business Bureau. A complaint was opened in February 2020. The website is based in Hong Kong, China and nothing has been done and the website is still operational.

Recommendation: Authorize a contested case proceeding and assess a \$1,000 civil penalty for unlicensed activity pursuant to Tenn. Code Ann. § 62-13-301

Commission Decision: The Commission accepted counsel's recommendation.

40. **2020061061**
Opened: 9/22/2020
First Licensed: 2/8/1990
Expires: 2/16/2021
Type of License: Principal Broker
History: None

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

The Complainant alleges the Respondent did not adhere to the terms of the listing agreement and the Confirmation of Agency form. The Complainant received an offer communicated by the Respondent's affiliate broker who was working with the Respondent on the sale of the Complainant's home. The Complainant alleges the Respondent never provided an official Purchase and Sale Agreement for the offer. The Complainant was only sent a text indicating there was less than 24 hours to provide a response and the Complainant communicated verbally to the Respondent the details of the counteroffer even though an official document was never provided to the Complainant for signature. The Complainant was encouraged that both the Principal Broker and the Affiliate Broker did not want to adhere to the original offer because there were additional offers pending the original offeror could not take the deal at any point. The Complainant was informed on July 28, 2020 both agents that the Seller let the offer expire due to the lowball offer and this was inaccurate. The Complainant was not given the opportunity to respond in a proper manner. The Complainant requested the Respondent contact the Complainant, but the Respondent only contacted the Complainant on the following day. On Thursday, July 30, 2020, the Complainant communicate to the Respondent the displeasure that the counteroffer had not been provided because the Complainant believed the all offers even low offers should still be properly responded to in order to conduct respectful business for all parties involved. The Complainant later received a verbal offer from the Respondent on behalf of a new buyer. The official Purchase and Sale Agreement was later provided with some salient undisclosed terms. It was never immediately discussed or brought up verbally or provided in writing to the Complainant. The Complainant alleges the Respondent failed to properly disclose the change of representation to let the offer expire. The Complainant spoke with the real estate agent and wanted to be released from the contract, but because of commission negotiations, the agents wanted to give the customer a fair

chance at purchasing the property. Later, the Complainant found another agent and on July 31, 2020, the Complainant counteroffered and it appeared to the Complainant there was inside information being provided by the Seller. The Complainant alleges the Respondent engaged in conspiracy to defraud. The Complainant also sent a follow-up request to the Tennessee Real Estate Commission and stated the Complainant would like to submit an errors and omissions claim in the amount of \$60,000 for the following reasons: negligence in fiduciary duties, failing to inform the Seller of all offers presented in writing, declining offer with the Complainants approval, compensatory damages associated with the breach of contract/misrepresentation, additional punitive damages due to fraudulent misrepresentation and emotional distress due to the actions of the real estate brokers, time the home was off the market resulting in loss of home value due to negligence and misrepresentation by the Respondent.

The Respondent worked with an affiliate broker in handling the sale of Complainant's home. Both Respondents provided responses separately to identical complaints. The Respondent was originally asked by the Complainant asked if it would be possible to obtain a property for \$425,000 in a certain neighborhood. The Respondent told the Complainant that there was no other home in the subdivision that has been sold for anywhere in the \$350s. The Respondent suggested a starting price of \$375,000 to \$380,000 and advised the Complainant that would be a stretch. The Complainant decided to list the home for sale at \$408,900 and the Respondent and the affiliate broker listed the property as "Coming Soon" as week prior to the property being placed on the market. There was no contact from many Buyers or Buyer's agents until suddenly an offer came for \$401,000 with the Seller to pay \$12,000 in closing costs. The Respondent provided all documents supporting the Purchase and Sale Agreement was provided for all transactions to the Complainant and although the terms of an offer may have been communicated by e-mail, the proper documents were always produced for all offers and counteroffers. The Complainant wanted to counter so the Respondent assisted with the counteroffer and the Buyer rejected the counteroffer. Another larger home came on the market in the same neighborhood for \$399,000, however, the Complainant did not want to drop the price lower than \$398,900 six days later and then dropped the price to \$388,900 nine days later. There were no other offers during this period. The price was dropped again to \$384,900. An offer was received on July 27, 2020 for \$370,000. The Buyer wanted \$5,000 in closing costs and \$685 for a warranty. The potential loss in price was \$20,685 and the Complainant was considering making a counteroffer and the Respondent stated it could result in being tied up in negotiations when another better offer may be made. This is always a consideration and the Respondent mentioned it to the Complainant. During this time, the Complainant was still thinking about whether or not to make a counteroffer and the offer expired. Also, another Buyer became interested in the property and made an offer on July 30, 2020. At this point, the Complainant asked the Respondent if the transaction could be completed for a 3% commission instead of a 6% commission since the Buyer was not represented by a Buyer's agent. The Respondent advised the Complainant the listing agreement stated 6% and any other compensation to any other co-selling agency would be owed to the agency by the Respondent. The Respondent also advised the Complainant the Respondent would default to a Facilitator to complete the transaction for both parties. The Complainant did not want to pay the 6% commission. The Complainant received the Confirmation of Agency form concerning the Respondent's facilitator status and the Complainant did not want to sign the offer or the Confirmation of Agency. The Complainant again requested the Respondent accept 3% Commission and the Respondent declined and the Complainant became angry and wanted to

cancel the listing agreement. The Complainant had a new real estate agent remove the sign and try to remove the lock box. The agreement with the Respondent had not even been terminated. There were no threats made against the Complainant by any party representing the Respondent. The Respondent never made any threats against the Complainant. In fact, the Complainant made threats against the Respondent to destroy the Respondent's property. The Buyers still wanted to purchase the property and a counteroffer was made for \$384,000 with \$5,000 to be paid towards the Buyer's closing costs and other miscellaneous terms regarding earnest money and appliances by the new agent representing the Complainant. An addendum was sent over also to pay a commission of 3.5% with the Respondent to receive 1.5%. A counter was made at the same price with \$384,000 purchase price and \$9,000 in closing costs and the Respondent and the affiliate agreed to forego the 1.5% commission and requested the Seller pay the commission amounts towards the Buyer's expenses. The Complainant did not accept the counteroffer. Another counteroffer was made by the Buyers for \$380,000 and only \$3,500 towards Buyer's closing costs along with the omission of the 1.5% commission with the other miscellaneous terms and the Complainant rejected the counteroffer. The new real estate agent for the Complainant took over the listing after the Respondent's termination and began to use all the pictures for the listing without asking the Respondent or the affiliate broker. The new agent was aware the pictures did not belong to the agent. The Respondent's affiliate broker asked the new agent to stop using the pictures and the new agent responded with some hostile remarks and the Respondent asked if the parties could come to some sort of an agreement about the pictures. The new agent responded and stated the new agent was not sure she would keep the listing. The following day, the Respondent and the affiliate broker never heard from the agent again and stated she was "making a clean break" from the Complainant. The Respondent disclosed everything in writing and the Complainant refused to sign the necessary documents for the Confirmation of Agency form and the Complainant was aware of the disclosure and even wrote "VOID" on the document. There was never any conspiracy to defraud the Complainant or any other party involved in the transaction.

The Respondent has not violated any laws of the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission. All proper disclosures and documents were provided to the Complainant concerning all offers and any transactions.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2020061071
Opened: 9/22/2020
First Licensed: 3/24/2014
Expires: 3/23/2022
Type of License: Affiliate Broker
History: None

The Complainant provided the identical complaint against this Respondent as stated in the previous complaint above. The Respondent in this matter is the Affiliate Broker of the Principal Broker in the previous complaint.

The Complainant alleges the Respondent did not adhere to the terms of the listing agreement and the Confirmation of Agency form. The Complainant received an offer communicated by the Respondent who was working with the Respondent's Principal Broker on the sale of the Complainant's home. The Complainant alleges the Respondent never provided an official Purchase and Sale Agreement for the offer. The Complainant was only sent a text indicating there was less than 24 hours to provide a response and the Complainant communicated verbally to the Respondent the details of the counteroffer even though an official document was never provided to the Complainant for signature. The Complainant was encouraged that both the Principal Broker and the Affiliate Broker did not want to adhere to the original offer because there were additional offers pending the original offeror could not take the deal at any point. The Complainant was informed on July 28, 2020 both agents that the Seller let the offer expire due to the lowball offer and this was inaccurate. The Complainant was not given the opportunity to respond in a proper manner. The Complainant requested the Respondent contact the Complainant, but the Respondent only contacted the Complainant on the following day. On Thursday, July 30, 2020, the Complainant communicate to the Respondent the displeasure that the counteroffer had not been provided because the Complainant believed the all offers even low offers should still be properly responded to in order to conduct respectful business for all parties involved. The Complainant later received a verbal offer from the Respondent on behalf of a new buyer. The official Purchase and Sale Agreement was later provided with some salient undisclosed terms. It was never immediately discussed or brought up verbally or provided in writing to the Complainant. The Complainant alleges the Respondent failed to properly disclose the change of representation to let the offer expire. The Complainant spoke with the real estate agent and wanted to be released from the contract, but because of commission negotiations, the agents wanted to give the customer a fair chance at purchasing the property. Later, the Complainant found another agent and on July 31, 2020, the Complainant counteroffered and it appeared to the Complainant there was inside information being provided by the Seller. The Complainant alleges the Respondent engaged in conspiracy to defraud. The Complainant also sent a follow-up request to the Tennessee Real Estate Commission and stated the Complainant would like to submit an errors and omissions claim in the amount of \$60,000 for the following reasons: negligence in fiduciary duties, failing to inform the Seller of all offers presented in writing, declining offer with the Complainants approval, compensatory damages associated with the breach of contract/misrepresentation, additional punitive damages due to fraudulent misrepresentation and emotional distress due to the actions of the real estate brokers, time the home was off the market resulting in loss of home value due to negligence and misrepresentation by the Respondent.

All offers were communicated to the Complainant and both the Principal Broker and the Affiliate Broker always provided professional opinions to the Complainant and advised the Complainant when necessary. The Complainant always had the responsibility and the authority to make all decisions from the beginning to the end of the listing agreement. The only communication the Respondent had with the Complainant's new real estate agent was related to the Respondent's pictures being used and the cost of the pictures. There were never any threats made to the Complainant or the new real estate agent. The Complainant was even aware from the beginning that if a Buyer did not have an agent, the role of the Respondent would change to facilitator for both parties. This was mentioned again when the offer was being drafted. It was also disclosed

in writing on the Confirmation of Agency form. The Complainant was aware of the agency disclosure and even wrote "VOID."

The Respondent has not violated any laws and rules of the Tennessee Real Estate Commission. All proper disclosures and documents were provided to the Complainant concerning all offers and any transactions.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

42. **2020062221**
Opened: 9/22/2020
Unlicensed
History: None

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

The Complainant purchased property on July 30, 2020 to be used as a rental property. The Complainant listed the rental property on Facebook marketplace for rent on August 14, 2020. A person reposted the Complainant's advertisement at a lower rental price and included their e-mail address which was similar to the Complainant's e-mail address and different phone number. The ad also requested an additional \$500 security deposit. The Complainant contacted the telephone number and started communicating with the individual via text messages. The Complainant was asked for a rental application and \$50 application fee through an App and the individual would set up a time to see the home through the individual's attorney. Another phone number was provided for the "attorney." The Complainant contacted the attorney and the individual indicated they were an attorney and stated the application should be submitted with the application fee. The Complainant stated this is a scam and is reporting it to the Tennessee Real Estate Commission.

The Tennessee Real Estate Commission does not have jurisdiction in this matter and the laws and rules do not apply to any of the parties in this complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

43. **2020069511**
Opened: 9/22/2020
First Licensed: 6/4/1986
Expires: 8/3/2022
Type of License: Principal Broker
History: 2011 Civil Penalty Failure to Supervise Affiliate's E&O insurance

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

The Complainant contacted the Respondent on April 15, 2020 to report that there had been tree damage on the property. The Complainant left a detailed voice message. The Complainant did not receive a returned call. On May 4, 2020, the Complainant went to the office to inquire about the work order. The Complainant was advised the associate had to check with the owner. The entire month passed without any tree service and there was no courtesy call from the Respondent concerning the tree. The tree sustained more damage from the persistent inclement weather. The tree unsuspectingly began to drop dead branches/limbs which the Complainant thought could be dangerous to the Complainant and others that visited the property. On June 23, 2020, the Complainant contacted the office again and spoke with a different associate who stated there was not a work order assigned to the Complainant. The Complainant advised that the Complainant was planning to hire a tree service and send the Respondent a bill. A tree service was contacted the Complainant submitted the bill to the Respondent. The Complainant requested reimbursement of the \$675 or to credit the Complainant's rent account. The Respondent never received a reimbursement and presumed the following month there would be a credit on the Complainant's rental account. The Complainant did not pay the following month's rent and later received a letter from the Respondent's attorney demanding the payment for the entire August 2020 rent which the Complainant submitted.

The Respondent provided a response and stated this is a contractual issue and dispute of whether the landlord is responsible for providing the tree service because it is not considered an essential service and the Complainant does not have a lease agreement for the rental of the property. The Complainant's health and safety is not in jeopardy and the tree is not interfering with the use and enjoyment of the property.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

44. **2020069951**
Opened: 9/22/2020
First Licensed: 5/8/2002
Expires: 3/1/2021
Type of License: Principal Broker
History: None

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

The Complainant asked the real estate affiliate broker for the broker's name and phone number. The Complainant contacted the Principal Broker and explained to the Respondent the affiliate broker spoke to the Complainant in an unprofessional manner, failed to follow the Complainant's instructions during the resolution period on a home the Complainant was under contract for on a purchase. The Respondent was polite and understood the Complainant's reservations about

wanting to move forward with the purchase of the home because of the termite damage, settlement issues and broken window casement affecting the proper usage of the only window. The Complainant was unaware of the Buyer's Agreement with the Respondent's firm and the affiliate broker never went over the terms of the agreement. The Complainant stated the standard forms were not standard and the Complainant did not become aware of this until June 2020. The Complainant claims the affiliate broker treated the Complainant in a predatory and deceptive manner and the Complainant trusted the affiliate broker. The Complainant alleges the Respondent failed to adequately supervise the affiliate broker and the real estate firm is a deceptive predatory real estate firm. The Complainant stated the agreement was terminated. The Complainant stated the Respondent was not licensed.

The Respondent provided a response and stated the Complainant voluntarily signed all documents. The Complainant entered into an Exclusive Buyer Representation Agreement on June 4, 2020. The Complainant entered into a contract to purchase a home directly from an owner and the transaction closed on July 30, 2020 with a purchase price of \$400,000 following withdrawal from a previous contract. The Complainant had entered into an Exclusive Buyer Representation Agreement which would expire on September 30, 2020. The Respondent is still due a payment of \$12,000 in professional services. The Respondent understood the Complainant had reservations about wanting to move forward with the purchase of the home because of the termite damage, settlement issues and broken window casement affecting the proper usage of the only window. However, the Complainant cannot verbally cancel the exclusive buyer representation agreement and go and purchase the home directly from the Seller when the exclusive buyer representation agreement is still in effect. The Respondent always adequately and properly supervised the Affiliate Broker involved in the transaction. The Respondent did not engage in any predatory practices or deceived the Complainant. The Respondent is properly licensed by the Tennessee Real Estate Commission and holds a valid Principal Broker license. The Respondent is the principal broker of two firms and both firms are in the same location pursuant to the Commission rule.

This is a breach of contract dispute between the parties and the Respondent has not violated the Tennessee Real Estate License Act or the rules of the Tennessee Real Estate Commission.'

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

45. **2020076631**
Opened: 10/20/2020
First Licensed: 2/5/2016
Expires: 2/4/2022
Type of License: Affiliate Broker
History: None

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

The Complainant was represented by the Respondent and the Respondent met the owners of the property and presented the \$450,000 offer and convinced the Sellers to sell the home to him personally for \$380,000 after the Respondent promised not to sell or tear down the home. The Respondent later sold the property to a builder for \$610,000 who was planning to tear the house down. Before the Respondent sold the house to the Builder, the Respondent contacted the Complainant and stated the owner of the home would only sell the home for \$680,000 and was inquiring whether the Complainant was still interested in purchasing the home. The Complainant went and spoke to the elderly owners who stated they would never allow the house to put on the market for over \$500,000. The Complainant was trying to purchase this home for the family and owns the house next door. The husband of the owner told the Complainant he did not know how he was going to tell his wife they were scammed in the sale of the home.

The Respondent provided a response and stated the Respondent approached the Complainant to express interest in purchasing the home for the purposes of tearing it down and building a spec home. The Complainant stated he was interested in buying the home for his sister and had reached out secretly a few times to the owners. According to the Respondent, the Complainant indicated the owners did not like the Complainant because a large fence had been built and the owners did not believe it conformed to the codes and encroached on their property. When the owners found out the Respondent was interested in purchasing the home and asked if it was the Complainant and the Respondent answered honestly. The Respondent was never asked by the Complainant to present a formal offer and wanted the Respondent to approach the owners of the property secretly. The Respondent does not have a Buyer's Representation Agreement with the Complainant. The Respondent decided not to purchase the property from the owners and a client of the Respondent expressed interest in purchasing the property. The Respondent made it clear to the client that the Complainant wanted to purchase the property. The owners stated they would not sell the property to the Complainant under any circumstances. The owners of the property had full knowledge the Respondent's client was going to either renovate the entire home or tear it down and build a spec home. The Respondent provided affidavits of the owners of the property who were aware of all the circumstances surrounding the purchase and were refusing to sell the home to the Complainant. The Respondent also provided several messages between the Complainant and the Respondent substantiating the Respondent's statements. In fact, the Complainant was open to a builder purchasing the home and redoing the home because it would help his property value.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

REPRESENTS

SHILINA B. BROWN

46. 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 to 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.

New Information: The Respondent had the potential buyers viewing the home with the Respondent provided a statement that all the doors were closed upon exiting the property. The Respondent is very apologetic about the situation that occurred but does not believe the Respondent left any of the doors open after exiting the property and does not know what happened and why the doors were left ajar or wide open. Also, the Respondent and the

potential buyers were very respectful of the fact that the homeowner had a medical condition and was extra cautious when viewing the home and made it a point to not remain in the home longer than necessary. Based on the additional statement provided by the potential buyers viewing the home with eh Respondent concerning the doors being closed upon departure by the Respondent, this matter should be closed.

New Recommendation: Close.

New Decision: The Commission accepted counsel's recommendation.

**47. 2020030081
Opened: 5/4/2020
Unlicensed:
History: None**

The Complainant is a resident of Kansas City, Missouri. The Respondent is operating as a short-term rental company in Tennessee.

The Complainant booked a furnished accommodation through booking.com with the Respondent who provides vacation homes in Tennessee prior to the COVID-19 pandemic. After the first wave of stay-at-home orders issued by Tennessee, the Complainant requested a refund because the Complainant could not travel to Tennessee. Instead, the Respondent offered the Complainant the opportunity to reschedule the trip to April 2020, however, both Tennessee and Missouri extended the stay-at-home orders through the week of the scheduled visit and the Complainant requested the Respondent provide a refund.

The Respondent provided a response and stated the reservation was made in January 2020. In March 2020, the Complainant requested cancellation of the booking and a full refund, however, there was a cancellation fee and instead of being charged the fee, the Complainant decided to rebook the stay with the Respondent.

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

Decision: The Commission accepted counsel's recommendation.

New Information: The Respondent has taken the necessary certification in Tennessee and submitted an application for licensure. The license is being processed.

New Recommendation: Close.

New Decision: The Commission elected to keep the originally issued discipline.

**48. 2018048611
Opened: 7/24/2018
Type of License: Unlicensed**

History: None

Complainant filed a consumer complaint with the Division of Consumer Affairs, who then forwarded the matter to the Commission for an investigation into possible violations of the Broker License Act.

The basis of Complainant's complaint was an advertisement from Respondent, an unlicensed real estate investor, offering a way for consumers to "sell" their homes in seven (7) days or less. Complainant stated that when Respondent actually contacts the homeowners, the timeline proposed is more akin to thirty to sixty days. The advertisement contains other language, like, "Avoid waiting, hassles, listings, realtors, and fees!" and "We negotiate and buy short sales!" and "Any price, any condition!"

An investigation was opened. The investigator was able to locate Respondent, who they state was very forthcoming and cooperative. Respondent provided an affidavit to answer the allegations raised in the complaint, as well as a copy of their standard purchasing agreement.

Respondent states they are a buyer only, they never sell, and that they work with other individual investors and buyers who are partners. Respondent states they want to be totally transparent and provided a copy of their standard purchase agreement, which does include some questionable terms, including the requirement that the seller permit the buyer "if necessary" to "hold an event to attract as many potential Funder/Buyers as possible during the agreed upon option period." Respondent denies giving any "open houses" and states that the only time they might have people over is with the agreement of the potential seller, and that the only people who come are Respondent's investor partners.

Respondent stresses that they want to be as transparent as possible and states they have hired an attorney to help them navigate the licensing laws. The investigator's report included a remark that they found the Respondent to be believable and earnestly trying to conduct a legitimate business.

Counsel recommends a Letter of Warning/Instruction alerting Respondent to the definition of broker, as well as the advertising rules, and putting them on notice that any unlicensed activity may result in future disciplinary action.

Recommendation: Letter of Warning

Decision: The Commission voted to issue a Consent Order with a \$1,000 civil penalty for unlicensed activity and to include cease and desist language in the Order.

New information: An attorney for Respondent reached out to legal counsel to clarify some points about Respondent's business. Respondent has not, nor intends to, receive or charge any commission or other consideration from any person with regard to possible real estate transactions, nor do they offer to act on anyone's behalf in real estate transactions. To date, Respondent's company has not closed on any sales. Thus far, Respondent has done no more than offer to purchase properties for their company.

Respondent's counsel countered the Commission's authorization of a \$1,000 penalty and proposes the entry of a Consent Order which would mandate that Respondent get licensed within a specified time frame. Counsel agrees that this is a suitable remedy, as it will automatically place Respondent under the jurisdiction and licensing laws of the Commission.

New recommendation: Consent Order requiring Respondent to test and apply for licensure within a reasonable time frame determined by the Commission.

New Decision: The Commission authorized a Consent Order requiring Respondent to be licensed by September 1, 2019, or pay a one thousand dollar (\$1,000.00) civil penalty for unlicensed activity.

New Information: The Respondent's attorney recently provided an extensive response detailing the firm is a real estate investment firm and setting forth the details of the activity of the firm. The Respondent is subject to the exemption under the statute for real estate investment firms.

New Recommendation: Close.

New Decision: The Commission accepted counsel's recommendation.

49. **2018082141**
Opened: 11/21/2018
First Licensed: 11/15/2011
Expires: 11/14/2019
Type of License: Principal Broker
History: None

Complainant is a real estate investor and managing member of an investment firm LLC. Respondent is a principal broker; however, this complaint pertains to Respondent's actions as a renter and former tenant of a property now owned by Complainant's investment firm. Complainant raises serious allegations against Respondent, including fraud and misrepresentation, and claims that Respondent used their knowledge and experience as a real estate agent in furtherance of their scheme. Essentially, Complainant claims that Respondent forged multiple lease documents and knowingly provided false information and doctored bank statements to make it appear that they were current on their lease when Complainant's company assumed ownership of the property.

Respondent's answer to the complaint points out that this complaint is the same subject matter of a civil lawsuit that has been in litigation since 2014, when the dispute first arose. Complainant argues that the statute of limitations is inapplicable because they did not discover some of the alleged violations until the case went into litigation, and further claims they only learned about some of the alleged violations within the past year.

Counsel believes this matter is likely outside the statute of limitations; however, it may be more prudent to place this matter into litigation monitoring and allow the Court to make a determination

as to whether the claims have any merit, and later re-evaluate with particular regard to whether Complainant's present allegations are distinguishable from those raised in their civil court pleadings.

Recommendation: Litigation monitoring.

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

New Information: This matter is related to a real estate investment firm and falls under the statutory exemption of the Tennessee Real Estate License Act. Also, the civil litigation is still pending between the parties and this matter relates to a civil dispute between the parties and is unrelated to the licensure of the Respondent. The Respondent voluntarily surrendered the license in November 2019 and is no longer licensed by the Tennessee Real Estate Commission.

New Recommendation: Close.

New Decision: The Commission accepted counsel's recommendation.

50. 2019013541

Opened: 2/19/2019

First Licensed: 6/30/2008

Expires: 2/4/2020

Type of License: Time Share Salesperson – E&O Suspension

History: None

Complainant is a timeshare owner and Respondent is a licensed timeshare salesperson. Complainant alleges that they met with a timeshare representative to discuss having their mother's name removed from the purchase documents they signed in 2015. Complainant states they wound up purchasing a whole new contract which included an \$11,000 processing fee. Complainant followed up a few months later only to find their mother's name still attached to the timeshare.

Complainant's mother passed in September 2017. In October, Complainant states they attended another meeting to discuss correcting the issue. Respondent was also in the meeting. Complainant alleges that Respondent advised that they could fix the issue but that Complainant would have to buy a small number of points. Complainant states that in total they paid over \$60,000 trying to have their mother's name removed and nothing happened. Complainant states they have since learned that all they had to do was send in their mother's death certificate and that there was never any reason to purchase new contracts.

In their answer to the complaint, Respondent simply stated that the transaction described in the complaint was over a year-and-a-half ago and that they do not have a good memory of Complainant. They state there would be no reason for them to tell Complainant they could get their mother's name off the documentation and that common sense would say not to spend "X"

amount of dollars twice when there was no result the first time. Respondent says they know they never would have advised anything like that.

Recommendation: Dismiss.

Decision: The Commission voted to issue a \$500 civil penalty for failure to exercise reasonable skill and care.

New Information: This is a timeshare matter and relates to the cancellation of the contract and rescission of the contract. The Respondent is no longer licensed as a Timeshare Salesperson and the license expired in February 2020. The timeshare was purchased in 2015 and was not rescinded in accordance with the contract terms. The Complainant's private right of action to be instituted within 4 years of the date of the contract has expired.

New Recommendation: Close.

New Decision: The Commission accepted counsel's recommendation.

51. **2020003801**
Opened: 3/9/2020
First Licensed: 3/10/1995
Expires: 12/7/2022
Type of License: Principal Broker
History: 2012 Letter of Warning

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

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

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

Recommendation: Litigation monitoring.

Decision: The Commission accepted counsel's recommendation.

New Information: The criminal case is still pending and there has been no update since July 2020.

New Recommendation: Authorize formal contested case proceeding with assessment of a civil penalty in the amount of \$3,000 for failure to exercise reasonable skill and care, making a substantial and willful misrepresentation, any conduct that constitutes improper, fraudulent or dishonest dealing pursuant to Tenn. Code Ann. § § 62-13-403(1) and 312(1), (20).

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

52. **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.

New Information: Respondent is requesting a hardship consideration for the civil penalty to be reduced.

New Commission Decision: The Commission elected to keep the original discipline and civil penalty amount.

53. 2020052531
Opened: 8/17/2020
Unlicensed
History: None

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

The Complainant alleges the Respondent operates as an online real estate brokerage firm and is owned by a Florida corporation and does not have a Tennessee real estate firm license.

Recommendation: Authorize a formal contested case proceeding and assess a civil penalty in the amount of \$1,000 for operating as an unlicensed real estate firm in the State of Tennessee.

Commission Decision: The Commission accepted counsel's recommendation.

New Information: The website for this Respondent is now defunct and the complaint was made anonymously. This was sent out for investigation and we have no viable addresses or contact person.

New Recommendation: Close.

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

54. 2020053461
Opened: 8/17/2020
Unlicensed
History: None

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

The Complainant alleges the Respondent operates as an online real estate brokerage firm and is owned by a Florida corporation and does not have a Tennessee real estate firm license.

Recommendation: Authorize a formal contested case proceeding and assess a civil penalty in the amount of \$1,000 for operating as an unlicensed real estate firm in the State of Tennessee.

Commission Decision: The Commission accepted counsel's recommendation.

New Information: The website for this Respondent is now defunct and the complaint was made anonymously. This was sent out for investigation and we have no viable addresses or contact person.

New Recommendation: Close

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

55. 2020053321
Opened: 8/3/2020
First Licensed: 4/3/2006
Expires: 4/2/2022
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 contacted the Complainant's client without the Complainant's consent and had the client sign a form extending the closing date and giving the Sellers an extra day to move out after the closing. The Complainant had asked the Respondent not to communicate with the Complainant's client, but the Respondent ignored the Complainant's request. The client was not aware the Complainant did not provide the form because the Complainant and the Respondent work in the same office. The Complainant would not have agreed to allow the Sellers to stay an extra day after closing to move out. At this point, the Respondent started to ignore the Complainant and would not communicate with the Complainant by text or phone and only by e-mail. When the Complainant did not respond quickly, the Respondent decided to contact the Buyers directly and got them to sign the form to allow the Sellers to remain in the home for an extra day.

The Respondent provided a response and stated the request for an additional move day was listed in the MLS and the Complainant had no issue with the additional day initially. The Complainant told the Respondent the issue could be worked out. Later, the Complainant refused to agree to the additional day and requested the Complainant ask the client of the property instead of deciding for them. The Buyers had agreed with it and even told the lender that it would not be a problem. The Temporary Occupancy Agreement was sent to all parties to sign and it indicated all parties were aware. The agreement was null and void once the closing date was delayed. The Complainant often refused to return paperwork or draft paperwork and often ignored the Respondent's e-mails, texts and phone calls.

Recommendation: Authorize a formal contested case hearing and allow for informal settlement by Consent Order and payment of a \$1,000 civil penalty for failure to diligently exercise reasonable skill and care in providing services to all parties to the transaction.

Commission Decision: Defer to next Commission meeting and obtain additional information from the Principal Broker.

New Information: The Principal Broker submitted an explanation of the situation. The Principal Broker was contacted by both agents seeking advice. The Respondent was not getting a response from the Complainant and the Principal Broker advised the Respondent to go by the time periods in the bound contract and if the timeframes were ignored by the

Complainant and if it is ignored or missed then it would expired and would become null and void and Buyer would lose the home. The lender got involved and told the client, the Buyer, the contract was going to expire and the Buyer would lose the home and this is how it progressed to getting the documents signed by the Buyer with the help from the lender. The Buyer did not want to lose the home. The Complainant told the Lender to handle the matter. After the documents were signed by the Buyer, the Complainant again became engaged and accused the Respondent of contacting the client behind the Complainant's back. The Complainant is no longer employed by the Principal Broker's firm and has been broker released. This was not the first instance the Complainant had with the other real estate agents and the Principal Broker had to get involved on a couple of different instances. The Complainant was often belligerent and bullying in working with other agents. The Principal Broker has had to sit down with the Complainant on several occasions over the years and counsel the Complainant about communication, ethics, follow-up, professionalism and attending closing in order to try to assist the Complainant to become a better agent and serve clients properly.

New Recommendation: Close.

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

56. 2019060881

Opened: 7/11/2019

Type of License: Unlicensed

History: None

Complainant is a former real estate licensee. Respondent is an unlicensed limited liability company.

Complainant alleges that Respondent is participating in unlicensed activity. Complainant states that Respondent has filed a lawsuit demanding monies earned from a real estate transaction in violation of T.C.A. § 62-13-105. Complainant states that the commission should enforce their right to petition the court to enjoin the Respondent from continuing to conduct unlicensed activity per T.C.A. § 62-13-109. Complainant attached copies of a lawsuit filed against Complainant in civil court, the purchase agreement, emails, and text messages.

Respondent filed a response through their attorney. Respondent states that they are currently involved in a civil suit against Complainant's company and Complainant. Respondent states that they are seeking to recover assignment of fees arising from an agreement to assign the right to purchase real property. Respondent states that the proceeds from the assignment are subject to an injunction entered in the civil lawsuit as a result of Complainant's fraudulent and unlawful actions. Respondent alleges that Complainant's firm is not a licensed firm in the State of Tennessee. Respondent states that the license number referenced by Complainant belongs to a different individual. Respondent further states that Complainant's company's license expired on December 31, 2002 and has not been reinstated since then. Respondent states that Complainant's license was

revoked on January 28, 2019. Respondent states that a real estate licensee owns 25% of the Respondent limited liability company. Respondent states that they do not dispute that the limited liability corporation is unlicensed; however, they have owners that are real estate licensees who were licensed at the time of the real estate transaction. Respondent further states that they are within their rights to pursue money damages resulting from Complainant's and Complainant's company's breach of contract. Respondent states that there is no legal basis or grounds for enjoining Respondent from any activity. Respondent states that Complainant's allegations are unsubstantiated.

Complainant filed a rebuttal stating that the Respondent's attorney searched for an individual license rather than Complainant's firm license and therefore yielded the wrong results. Complainant states that Respondent LLC is a home building company and is not a licensed real estate firm. Complainant states that it is their understanding that licensees are only to transact real estate under the real estate firm in which they are affiliated with.

Counsel reviewed the documents provided by the parties. It appears that the real estate transaction was between Complainant and the owner of a property. Respondent LLC does not appear to be involved in the purchase agreement for the real estate transaction. It is counsel's understanding that the Respondent LLC was not in the business of purchasing or selling real estate. Complainant's company was alleged to have assigned monies earned from a real estate transaction to the Respondent LLC for purposes of land development.

Recommendation: Litigation Monitoring.

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

New Information: The parties have resolved all issues and settled the civil lawsuit. This matter should no longer be in litigation monitoring status. The Respondent was not involved in the real estate transaction and there are no violations of the Tennessee Real Estate License Act.

New Recommendation: Close.

New Decision: The Commission accepted counsel's recommendation.

ANNA D. MATLOCK

57. 2019098741
Opened: 12/9/2019
First Licensed: 4/26/2017
Expires: 4/25/2021
Type of License: Affiliate Broker
History: None

Complainant is the owner of a real estate investment company. Respondent is a licensed affiliate broker and former employee of Respondent. Complainant alleges Respondent continued to use login information on their database to generate business at their new company, a competitor of Complainant. Complainant states they have documented at least seven (7) instances in which Respondent access their system, and evidence that four (4) leads were stolen from them. Complainant has filed a civil lawsuit against Respondent pertaining to the allegations contained in this complaint and in December of 2019 were granted a temporary restraining order against Respondent.

Respondent answered the complaint through their attorney. Respondent's attorney states they deny the matter asserted in the complaints and denies taking any affirmative action to continue to receive emails concerning potential property sellers. Respondent also states the Commission over the matter alleged in the complaint. Furthermore, Respondent requests should this matter not be dismissed that this be held in abeyance until the resolution of the lawsuit. Counsel confirmed with Respondent's counsel that litigation over the same details alleged in the complaint. Therefore, based on the information provided, Counsel recommends this matter be placed into litigation monitoring as some of the details in the complaint appear to fall under the jurisdiction of the Commission.

Recommendation: Litigation Monitoring.

Decision: The Commission accepted counsel's recommendation.

New Information: Respondent's attorney contacted Counsel and stated all common law claims were dismissed based on statutory preemption. Furthermore, the pending litigation against the Respondent has been voluntarily dismissed. Additionally, Complainant agreed to no longer pursue the complaint against Respondent. All issues between the Complainant and Respondent have been resolved. Following and update from Respondent's attorney, Counsel went and reviewed the matter, as well as considering the updated information provided. Counsel finds no violation of the rules or statutes and recommends this matter be dismissed.

New Recommendation: Dismiss.

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

Chairman John Griess recessed the meeting at 12:00PM



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0572
615-741-3449 FAX 615-741-6470**

Notice of Formal Hearing

Board: Tennessee Real Estate Commission

Respondents: Nedra O. Davis Redditt – Docket No. 12.18-203469A
Jasper Tollett – Docket No. 12.18-203468A

Date: December 10, 2020

Time: 8:30 A.M (Central Time)

Location: WebEx – Remote
Login [Link](#).

Participation by Board or Commission member or witnesses may be conducted by permitting participation by electronic means of communication, if necessary. This participation by electronic means shall be audible to the public at the location specified.

Courses Presented for Commission Evaluation

Sponsor/Address/ Contact	Title/Statutory &/or Rule Addressed	Comment	Instructor(s)	Hours
The CE Shop #1456 Michael McAllister	At Home with Diversity (I) Rule 1260-05-.03(5)(a) D1	This course will help students increase their sensitivity and adaptability for future market trends in their business.	Jill Malloy PREVIOUSLY APPROVED	6
Fidelity National Financial #1593 Shannon Taylor	Bankruptcy and Short Sales (CR) Rule 1260-05-.03(5)(a) D2	To educate real estate agents on most types of bankruptcies and short sales, in the best interests of delivering knowledgeable services to their client.	Patrick Bennett PREVIOUSLY APPROVED	1
Council of Residential Specialists #1113 Regina Harvey	Digital Marketing: Establishing a Social Media Brand (CR) Rule 1260-05-.03(5)(a) D3	Social media has become the cornerstone of real estate marketing. A real estate business cannot be expected to be successful without at least one social media platform. This course will show you how to effectively create a strategy to utilize in the social media market.	Marki Lymons Monica Neubauer PREVIOUSLY APPROVED	8
Gee Whiz Real Estate School #1583 Michelle Pumphrey	TREC Core Course 2021-2022 (I) Rule 1260-05.03(5)(a) D4	The purpose and goals of this course are to provide and update licensees with information required in the TREC Core Course outline of topics, including law, rules and professional responsibility.	Michelle Pumphrey PREVIOUSLY APPROVED	6
Jessi Sgarlata Institute #1739 Jessi Sgarlata	10 Steps to Building an Elite Team (CR) Rule 1260-05-03(5)(a) D5	This course is designed to provide seasoned agents with the necessary steps to building a team that is an extension of themselves, as their business successfully grows.	Jessi Sgarlata PREVIOUSLY APPROVED	2
Susan McKinney Real Estate School NEW #1791 Susan McKinney	Successful Business Planning in a Changing World (CR) Rule 1260-05-03(5)(a) D6	This course will enable real estate professionals to succeed no matter their business budget; and shows that planning provides the tools necessary to meet their business goals.	Susan McKinney PREVIOUSLY APPROVED	2

Memphis Area Association of Realtors #1094 O'Hara Keszler	Book/Record Keeping (CR) Rule 1260-05-.03(5)(a) D7	This class is designed to arm agents with the tools necessary to keep good records of their finances, clients' files, and important documents.	Rodney Tate PREVIOUSLY APPROVED	1
	Business Planning for New Realtors (CR) Rule 1260-05-03(5)(a) D8	To help new agents develop a business plan that will enable them to be successful as a REALTOR. Agents will learn to set goals, create a marketing plan, develop best practices and develop a database.		1
	Co Op Like a Pro (CR) Rule 1260-05-.03(5)(a) D9	Building better relationships with other agents with the intent to leverage associations to our clients' advantage. Learning the importance of first impressions & positive language.		1
	Google Basics-Business Tech Tools (CR) Rule 1260-05-.03(5)(a) D10	Attendees will learn the ins and outs of Gmail, Google Contacts, Docs, Slides, Forms and Drive.		1
	Lead Generation and Automation (CR) Rule 1260-05-.03(5)(a) D11	To introduce attendees to some affordable lead generation and automation tools at their disposal to help more clients and automate recurring tasks.		1
	Remote Communication and Business Tech Tools (CR) Rule 1260-05-.03(5)(a) D12	Attendees will learn the importance of communication in an online world, including virtual meetings, ZOOM, Facebook Video and Messenger and Google Hangouts and Due.		1
	Time Management-Business Tech Tools (CR) Rule 1260-05-.03(5)(a) D13	Introduce students to leverage technology tools and apps like Google calendar, Square Booking, Rescue Time, Forest, etc., in order to keep them on schedule and on task.		1
	What the Sale? (CR) Rule 1260-05-.03(5)(a) D14	To help students develop a process or system for getting clients to the finish line, how to project production numbers and understanding their role.		1

Courses Requiring Discussion

Sponsor/Address/ Contact	Title	Comment	Instructor(s)	Hours

Executive Director's Report

Profession Count by Type & Status

Profession	November
Acquisition Agent License	146
Acquisition Agent Registration	42
Acquisition Representative Registration	2330
Affiliate Broker	32543
Designated Agent	138
RE Broker	7896
Real Estate Firm	4375
Time Share Exempt	146
Time Share Registration	28
Time Share Sale	882
Vacation Lodging Service	147

License Type	Status	November
Individual	Active	38357
Individual	Broker Release	2
Individual	Inactive	1
Individual	Retired	5577
Individual	Suspended	414
Individual	Vol Surrendered	3749
Firm	Active	4676
Firm	Retired	62

Initial Applications Month Over Month from 2018- Present

Year	Feb	March	April	May	June	July	August	Sept.	Oct	Nov.
2018	532	582	537	557	453	442	529	464	495	371
2019	434	482	464	510	398	488	508	513	515	435
2020	485	424	177	249	387	432	594	647	627	537

Exams Taken by License Type Cumulative (1/1/202-11/30/2020):

Test	Tested	Pass	Fail	Percentage Passed	Percentage Failed
TN Acquisition Agent	61	27	34	44.26	55.74
TN Affiliate Broker-National	8639	4327	4312	50.09	49.91
TN Affiliate Broker-State	7234	5571	1663	77.01	22.99
TN Broker- National	575	310	265	53.91	46.09
TN Broker- State	593	488	105	82.29	17.71
Timeshare Salesperson	380	258	122	67.89	32.11

Opened and Closed Complaint Report:

Month	Opened Cases	Closed Cases	Sanctions
5/1/2019-5/31/2019	100	107	19
6/1/2019-6/30/2019	78	74	35
7/1/2019-7/31/2019	85	74	15
8/1/2019-8/31/2019	87	60	19
9/1/2019-9/30/19	59	118	12
10/1/2019-10/31/2019	75	48	5
11/1/2019-11/30/2019	43	78	6
12/1/2019-12/31/2019	53	81	7
1/1/2020-1/31/2020	62	61	3
2/1/2020-2/29/2020	67	107	4
3/1/2020-3/31/2020	67	113	14
4/1/2020-4/30/2020	56	84	5
5/1/2020-5/30/2020	60	82	9
6/1/2020-6/30/2020	53	23	13
7/1/2020-7/31/2020	79	81	3
8/1/2020-8/31/2020	53	41	4
9/1/2020-9/30/2020	56	71	6
10/1/2020-10/31/2020	74	51	3
11/1/2020-11/30/2020	44	48	5

*sanctions include complaints closed with consent orders and agreed orders.