



STATE OF TENNESSEE¹⁰²
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 March 10, 2021 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, Commissioner Steve Guinn, Commissioner Jon Moffett, Commissioner DJ Farris, Commissioner Joan Smith, and Commissioner Geoff Diaz. Vice-Chair Marcia Franks, and Commissioner Joe Begley were absent. 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.

The March 10, 2021 board meeting agenda was submitted for approval.

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

Minutes for the February 16, 2021 board meeting were submitted for approval.

Motion to approve the February 16, 2021 minutes was made by Commissioner Diaz and seconded by Commissioner Smith. Motion passed unanimously by roll call vote. Commissioner Torbett abstained.

WAVIER REQUEST

Director Maxwell presented Brenda Tuschl to the commission. Ms. Tuschl requested an extension on the six-month examination requirement.

Motion to approve the request was made by Commissioner Diaz and seconded by Commissioner Torbett. Motion passed 4-3 with Commissioner Diaz, Commissioner Guinn, and Chairman Griess voting against.

The Commission discussed how the executive order would apply to all applicants. After discussion, a motion to allow an additional 60 days of grace for applicants to submit completed applications to TREC was made by Commissioner Guinn and seconded by Commissioner Diaz. This allowance is an extension past the six months in which exam applications should be submitted to the Commission. This allowance is only in effect while the Executive Order related to TDCI Education & Examination is in effect. Upon expiration of the Executive Order, this allowance will no longer be available to candidates whose examination scores on either portion of the exam are past six months. Motion passed unanimously.

EDUCATION REPORT

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

Motion to approve courses M1-M36 was made by Commissioner Diaz and seconded by Commissioner Farris. Motion passed unanimously by roll call vote.

Education Director Ross White presented Instructor Bios to the commission.

~~Motion to approve instructors was made by Commissioner Diaz and seconded by Commissioner Torbett. Motion passed unanimously by roll call vote.~~

EXECUTIVE DIRECTOR'S REPORT

Director Maxwell updated the Commission on the topics below.

- **PSI VIRTUAL EXAM TESTING:** Director Maxwell advised that PSI started virtual exam testing February 25, 2021.
- **MISCELLANEOUS:** Director Maxwell advised that we have entered the penalty phase for E&O suspensions. The rules allow 30 days without penalty. The penalty phase will cause an uptick in complaints as licensees become compliant.

COMMISSION DISCUSSION:

The Commission discussed the TN Excel Conference. They also discussed the May Commission meeting and traveling to West, TN. The location of the meeting is still to be determined.

INFORMAL OPINION RESPONSE:

The Commission discussed an informal opinion request and decided to deny the request. A letter will be sent to the requester. The motion to deny was made by Commissioner Guinn and seconded by Commissioner Diaz. 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 1-87 with exception of the following cases which were pulled for further discussion: 2020090561, 2020091731, 2020090771, 2020098081, 2021000061, 2021006971, 2020088121, 2020089001, 2020060611, 2020042881, 2020014611, 2020071601, 2020092511, 2021006541. This motion was made by Commissioner Diaz and seconded by Commissioner Smith. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020090561, Commissioner Diaz made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020091731, Commissioner Diaz made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020090771, Commissioner Smith made the motion **to assess a \$5,000.00 civil penalty for the above violations and require the Respondent to take the Principal Broker Core class within 180 days of the execution of the Consent Order and this will not to count toward the continuing education required for licensure**. The motion was seconded by Commissioner Diaz. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020098081, Commissioner Diaz made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Torbett. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2021000061, Commissioner Farris made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2021006971, Commissioner Smith made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Moffett. Motion passed 6-1 with Commissioner Farris voting no.

After further discussion by the Commission on complaint 2020088121, Commissioner Diaz made the motion **to defer to April meeting**. The motion was seconded by Commissioner Smith. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020089001, Commissioner Diaz made the motion **to issue a Consent Order with a \$1000.00 civil penalty for the advertising violation**. The motion was seconded by Commissioner Guinn. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2020060611, Commissioner Smith 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 on complaint 2020042881, Commissioner Smith 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 on complaint 2020014611, Commissioner Smith 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 on complaint 2020071601, Commissioner Smith 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 on complaint 2020092511, Commissioner Diaz made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

After further discussion by the Commission on complaint 2021006541, Commissioner Diaz made the motion **to accept counsel's recommendation**. The motion was seconded by Commissioner Moffett. Motion passed unanimously by roll call vote.

Shilina Brown

1. 2020083981

Opened: 12/7/2020

First Licensed: 4/9/2019

Expires: 4/8/2021

Type of License: Affiliate Broker

History: None

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

The Complainant alleges the Respondent has been engaged in theft, forgery, and intent to deceive and made substantial and willful misrepresentations. The licensee previously worked for the Complainant's firm and currently works at another firm. This Complainant has made multiple complaints against several affiliate brokers. The Complainant claims there were two sets of the same e-file and e-certificates missing along with multiple uploads and this was inappropriate. The Complainant alleges the Respondent was in possession of a "duplicate file" which the Respondent never should have possessed. The Respondent was transferred out of the firm and had no authorization to obtain/transfer the firm's e-file out of the broker's portal. The

Complainant still does not understand how it was done. The firm never transferred this file. The Complainant asked the Respondent many times to return the property, however, the file was still in the Respondent agent's portal. The Respondent never returned the file. The Complainant also discovered "whited out" authentication stamps on every document of the "paper" version made for the Respondent several months ago. There should have been e-signing stamps on every e-signed document, but the Respondent's file did not have the stamps on the documents. The Respondent e-mailed the firm and admitted to having the file. The Complainant alleges this is the firm's intellectual property. After e-mailing the Respondent and informing the Respondent no authorization was given to take the file. The Respondent has refused to return the electronic transaction file containing the Complainant's firm's e-file. The Complainant alleges the Respondent engaged in theft through a third-party against the Complainant's firm.

The Respondent provided a response and stated the allegations in the complaint are vague and ambiguous and it is difficult to provide a complete response. The Respondent has not altered any files or documents and does not have possession of duplicate files or transferred any files without authority. The Respondent denies unlawfully retaining any intellectual property of the Respondent or the Respondent's firm. The Respondent stated the allegations of theft of property are false, defamatory and a gross misrepresentation. The Respondent is pursuing all available legal remedies against the Complainant in a pending lawsuit in state court. The Complainant is no longer the Principal Broker of the firm as of July 2020. There is a new Principal Broker. The Complainant did not sign the Respondent's TREC release form, it was the new Principal Broker that submitted the TREC 1 release form. The new Principal Broker was the Respondent's broker at the time of release. The Respondent cannot access any files except the files belonging to the Respondent. All files are maintained on a secure server. This Respondent stated this complaint was filed in retaliation against the Respondent after the Respondent filed the civil lawsuit against the Complainant for failure to pay previously earned commissions owed to the Respondent.

There is insufficient evidence indicating the Respondent violated the laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

2. 2020088951

Opened: 12/7/2020

Unlicensed

History: None

Complainant is a Minnesota resident and the Respondent is a Tennessee resident.

The Complainant resided at an apartment complex in Tennessee for two years. On April 17, 2020, the Complainant submitted a 60-day notice to the Respondent concerning

vacating the premises at the end of the lease on June 26, 2020. During the transition time, the Complainant dealt with the Respondent. The Complainant alleges the Respondent is not a licensed real estate agent. The Respondent has been performing the duties of a property manager without a license, negotiating leases, providing final statement of accounts. There is no individual in the leasing office who is a licensed real estate broker.

The Respondent provided a response and stated the Complainant was a former tenant at an apartment complex where the Respondent is employed as an Assistant Resident Manager. The Respondent is not a licensed real estate agent and has performed the job duties of a property manager at the apartment complex. The apartment complex is owned by a corporation and leases for this property are prepared by the owner and all terms of the lease are determined by the owner. The Respondent did not have the authority to determine the amount of rent, damage deposit or the terms of the lease. The leases used are pre-printed forms with all the terms determined by the owner. The Complainant was sent an e-mail with a final statement and a series of photographs at the end of the lease term to document the damages to the unit when the Complainant vacated the unit. The final statement did contain the cost to repair the damage to the unit in the amount of \$1,089.56. The Complainant received the final statement for damages and was upset about the charges and filed the complaint against the Respondent.

The Respondent is a resident manager of an apartment complex and falls under the exemption for licensure as 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 manage 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 or rentals and shall not negotiate any leases on behalf of the broker;

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

3. 2020089451

Opened: 12/7/2020

First Licensed: 5/9/2007

Expires: 11/21/2022

Type of License: Principal Broker

History: None

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

The Complainant alleges that on November 14, 2020, the Respondent approached a real estate agent and the client who were in a parked car and on their way to an open house showing. The Complainant alleges the Respondent approached these individuals and told them about another listing next to the open house being visited which was less expensive. The Complainant alleges the Respondent was attempting to steal the prospective real estate buyers from the Complainant's listing and try to redirect them to the Respondent's listing. The Complainant alleges the Respondent is in violation of the solicitation rules and has engaged in unethical behavior in the practice of real estate. The Complainant requests the Respondent cease and desist such actions and be reprimanded.

The Respondent provided a response and stated he was walking out of his neighborhood to move a "For Sale" sign to the front of the neighborhood for the Respondent's listing. The gates of the subdivision have been kept open on Saturday and Sundays with COVID-19 pandemic to facilitate showings and home sales. The only reason the Respondent was near the Complainant's listing was because the sign was located near the home. The real estate agent and client pulled up slowly and asked about the home being sold and the sign the Respondent was holding. The Respondent advised the real estate agent and the client there would be a home for sale tomorrow and told them the price. The real estate agent and the client did not seem too interested and stated they were visiting from California and the Respondent talked with them about living in California. The real estate agent and client indicated they had an appointment and had to leave. Later, the Respondent told the Complainant about the conversation with the real estate agent and client earlier in the day. Later that afternoon, the Respondent received a cease and desist letter e-mail from the Respondent's attorney. The letter indicted that the Respondent had contacted the Complainant's client on their way to the open house showing and stated if the Respondent did not discontinue these acts the Complainant would take legal action. The Respondent provided a written response and explained there was never any intent to take the Complainant's clients or interfere with any sale of a home. The Respondent provided an apology. The following day the Respondent received a reply from the Respondent stating it was understood and knew it would not happen again. The Respondent had agreed to comply with the Respondent's request. The Respondent has never looked up a

showing appointment time for the Complainant's prospective clients. The Respondent never intended to interfere with the listing or sale.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

4. 2020089831

Opened: 12/7/2020

First Licensed: 10/30/2017

Expires: 10/29/2021

Type of License: Affiliate Broker

History: None

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

The Complainant alleges the Respondent was hired to represent the Complainant as their real estate agent. The Respondent listed the Complainant's home located in Tennessee for about one year. The home was unique and hard to sell. There was an interested party who made a low offer. The Complainant declined the offer and counteroffered. The Respondent kept trying to get the Complainant to drop the price and accept the Buyer's offer. The Respondent began to agree with the Buyer and would ignore the Complainant's requests. The Complainant alleges the Respondent unilaterally changed the dates on the contract without the Complainant's permission. The potential buyers wanted possession of the home in 30 days and that was not possible since the Complainant did not have a place to live and the Complainant would need more time. The Respondent began discussing "rent" with the potential buyers and what amount would be charged if the Complainant had not vacated the premises and stated the potential buyers could charge \$100 per day. The Respondent told the Complainant the Respondent was doing everything possible for the sale to be completed because the home had been on the market for one year with no real offers. A few days before the closing, the Respondent sent a "Listing Agreement Release" form for the Complainant to release the Respondent as the Complainant's realtor.

The Respondent provided a response. The Complainant was seeking a new agent due to the previous unsuccessful attempts by other real estate agents to sell the home over the past three years. The property had been on the market since 2016. The Respondent met with the Complainant in August 2019. The property was listed for \$545,000 for a few months and there were not enough showings, so the price was dropped to \$540,000. After a few months without any offers, the Complainant decided to separate the mobile home from the adjoining property. The Complainant wanted to sell it as a package. The price for one property was \$495,000 and the other adjacent property was being sold at \$65,000. The Respondent recommended it be lowered. The lower priced property sold a few months later, but the first property did not sell. The Respondent even recommended the property be listed in an auction to create more interest, but the Complainant decided against it. The Respondent had spoken with two auctioneers who stated they would be able to get \$450,000 for the property at auction. After several showings over several months, there was only one offer at the end of the listing agreement period. The offer was low, and the Sellers verbally counter offered. The Respondent attempted to negotiate an acceptable price, but the parties reached an impasse. The Respondent even offered the Respondent's commission to make up the difference. The Complainant agreed and accepted. Before the offer was finalized, the Complainant called and wanted the offer written differently after it had already been written up and they instructed the Respondent about the changes they wanted to make. The Respondent wrote the offer as directed and made no changes. There were several disclosures sent for signature and the Respondent had to resend the documents multiple times because the Complainant had difficulty with the e-signature program. The offer was formally finalized two weeks after the initial offer was made. During the two weeks before finalization, the Complainant procrastinated with signing the agreement and the Buyers believed the Seller did not want to sell the property. The Respondent informed the Buyers the Complainant had been trying to secure another house. The Complainant also asked for temporary occupancy after the closing. The Buyers did not want to agree to a temporary occupancy agreement by the Complainant Seller. The transaction was a cash transaction and the buyer expressed concern that the Buyers would lose their money and would have to go through an eviction process to make the Complainant vacate the property. The Respondent was able to convince the buyer, the Complainant would leave the property and reminded them that the Complainant was buying another house. The buyer suggested to split the payoff where some of the money would be paid at closing and the rest would remain in escrow in case there were damages to the house during the period of the Complainant's continued occupancy after the closing. The buyer stated they would charge rent of \$100 per day for five days and then \$200 per day for each day after the initial five day. The Respondent relayed this to the Complainant and the same day, and the Complainant agreed to proceed. On the day of the inspection, the Buyers, a family member and the inspector arrived for the inspection and the Complainant refused to allow them to enter

the home and cursed belligerently to them. The Complainant also told the Buyer they did not want to sell the home. The Respondent received a call from the Buyer's family member who expressed anger and was upset over the incident. The Respondent could hear the argument and screaming in the background. The Respondent had to call the Complainant's wife to ask her to try to get her husband to calm down. The Buyers stated they were worried and scared the Complainant would burn the house down after closing and/or poison the water supply. The Buyers expressed the desire to back out of the contract and the Complainant even threatened to sue the Respondent and the Buyers if the Buyers backed out of the contract. The Respondent was advised by the Principal Broker to release the Complainant from the listing agreement. The listing agreement was sent to the Complainant after they had also expressed unhappiness with Respondent's service. The Complainant refused to sign the release and the Respondent had no choice but to continue to represent them. After the confrontation during the inspection, the Respondent was able to bring the Buyers back to continue with the transaction. The Respondent had to recommend another inspector because the previous home inspector refused to come back to the home. The final walkthrough was scheduled by the Buyers and the Buyers wanted to do a video walkthrough because of concerns about having a witness. The Seller refused to allow them to do a video walkthrough of the home. The Respondent had to attend the final walkthrough as a witness and to prevent a confrontation. At the final walkthrough, the Complainant showed the Buyers around the house to inspect the repairs that had been made to the home. The Buyers had asked about the remotes because the Complainant had two remotes. The Complainant explained that there were two remotes, but one of them is connected to their car mirror. The Respondent was not aware of this until the day of closing. The Respondent informed the Buyers they could buy another remote for around \$30 or change all the rocks and remote for security reasons. The Buyers were not pleased with the situation. There was also the issue of the security system the Complainant left behind as part of the sale. The Buyers asked the Complainant to leave the manual for the security system and the Buyers could not find it when they moved into the home. The Respondent is a licensed real estate agent, and this is not the first transaction the Respondent has had with the Complainant. The property closed within two weeks.

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

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

5. 2020090561
Opened: 12/7/2020
First Licensed: 10/19/2018
Expires: 10/18/2022
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's advertising was misleading to the public because of the name of the firm. The ad states the name of the firm is followed by "/Greater Downtown [Brokerage Brand Name] Realty."

The Respondent provided a response and stated the complaint was in connection with the Respondent's logo on Facebook. The Respondent spoke with the Principal Broker and found out the logo was a violation because it included the words "Realty" and "LLC." The Respondent has since removed the log and all advertising materials that include the logo and this was changed to the "Name of the Firm, Realtor/Greater Downtown Realty, LLC dba ___ Realty." The Respondent did not intend to confuse the public. The Principal Broker has instructed the Respondent to make sure all advertising is submitted to the Principal Broker before making it public. The Respondent will also sign up for a continuing education class about advertising rules and regulations.

Recommendation: Authorize a contested case hearing and assess a civil penalty in the amount of \$500 for advertising violations pursuant to Tenn. Comp. Rules and Regs 1260-02-.12(3)(f)(2) Licensees who hold themselves out as a team, group, or similar entity within a firm who advertise themselves utilizing terms such as "realty" or other similar terms that would lead the public to believe that those licensees are offering real estate brokerage services independent of the firm and principal broker.

Commission Decision: The Commission accepted counsel's recommendation.

6. 2020090691
Opened: 12/7/2020
First Licensed: 9/13/2019
Expires: 9/12/2021
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 and the Respondent's wife had an advertisement and the address of the real estate firm was incorrect on the advertisement and only showed the cell phone number of the Respondent and not the real estate firm's office phone number. There was a home address and cell phone number of the Respondent on the advertisement.

The Respondent provided a response and stated the advertisement was not authorized or requested. The Respondent did not participate in distributing the advertisement. The advertisement was issued by the local chamber of commerce as a new member announcement. The Respondent did not know it was being distributed by the chamber of commerce. The chamber used the home address and phone number of the Respondent and his wife for the advertisement and it was an e-mail blast that was sent out.

The local chamber of commerce also provided a response on behalf of the Respondent and stated the Respondents had nothing to do with the advertisement. It was issued by the chamber in the new member bulletin and the chamber is responsible. The address information used by the advertisement/e-mail announcement was the home address and cell phone number of the Respondent and his wife. The local chamber sincerely apologized for this incident and were not aware of the specific advertising rules for real estate professionals and stated the Respondents did not request or know about the e-mail blast that was misconstrued to be an advertisement and the chamber accepts full responsibility.

The Respondent did not place the "advertisement," it was not intended to be an advertisement, it was sent by a third-party and is harmless error. Legal Counsel recommends this complaint be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

7. 2020091071

Opened: 12/7/2020

First Licensed: 1/25/2017

Expires: 1/24/2023

Type of License: Affiliate Broker

History: None

This complaint is related to the previous complaint and has the identical facts. The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent and the Respondent's husband placed an advertisement and had the incorrect address of the real estate firm on the advertisement and only the cell phone number of the Respondent and not the office phone number. There was only the home address and cell phone number of the Respondent on the advertisement.

The Respondent provided a response and stated the advertisement was not authorized or requested. The Respondent did not participate in distributing the advertisement. The advertisement was issued by the local chamber of commerce as a new member announcement. The Respondent did not know it was being distributed by the chamber of commerce. The chamber used the home address and phone number of the Respondent and his wife for the advertisement and it was an e-mail blast that was sent out.

The local chamber of commerce also provided a response on behalf of the Respondent and stated the Respondents had nothing to do with the advertisement. It was issued by the chamber in the new member bulletin and the chamber is responsible. The address information used by the advertisement/e-mail announcement was the home address and cell phone number of the Respondent and his wife. The local chamber sincerely apologized for this incident and were not aware of the specific advertising rules for real estate professionals and stated the Respondents did not request or know about the e-mail

blast that was misconstrued to be an advertisement and the chamber accepts full responsibility.

The Respondent did not place the “advertisement,” it was not intended to be an advertisement, it was sent buy a third-party and is harmless error. Legal Counsel recommends this complaint be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

8. 2020091171

Opened: 12/7/2020

First Licensed: 2/28/2018

Expires: 2/28/2022

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and Buyer and the Respondent is a licensed Tennessee Affiliate Broker and Seller’s agent.

The Complainant alleges on October 30, 2020, the Complainant made an offer below asking price for a home. The Sellers counteroffered. The Complainants were also interested in some of the personal property in the home like the dining table. The Respondent told the Complainant’s agent that if the Complainants offered full price, the Complainants could have the couch and the dining table. The Complainant thought this was fair and agreed. On the day of the closing during the final walkthrough, the dining table and the couch were not left behind. The Respondent told the Complainant he would give \$800 for the table so all parties were happy. The Complainant alleges the Respondent used the furnishings as leverage to get the Complainant to enter the contract for the full listing price of the home. The Respondent did not provide any money to the Complainant for the furnishings. The Complainant also states the home is infested with roaches behind the refrigerator and in the dishwasher panel. The Complainant recalls there was roach spray on top of a water heater during the inspection, however, did not think it was being used to treat active roaches in the home. The Sellers never disclosed a problem with roaches. There was one roach nest under the refrigerator and another in the dishwasher panel. The Complainant had been told the home would be treated for pests before the closing and the home had never been sprayed for the roach infestation. The Complainant has lived in the home for 23 days and found the roaches immediately after moving into the home. There was never a roach problem at any other home the Complainant had lived. The Complainant alleges the roach infestation was not

properly disclosed.

The Respondent provided a response and stated the Complainants initially offered \$5,000 below full price offer with the Seller to pay up to \$5,000 in closing costs which was not a true full price offer. The Seller was adamant that no personal property would stay with the property and the contract or addendum to the contract never mentioned the property. A pest inspection was completed and there was no mention of any pests. The Seller was unaware of any issues with roaches while living the home or at any time during the sale of the home. The Respondent suspects the pest problem may have occurred after the Complainants moved into the home and could have come into the home with one of the Complainant's boxes from the move. The Sellers had the home sprayed yearly for pests. A home inspection was completed on the home and there was not a roach or issue.

There was no language in the contract or the amendment that the Seller would leave the couch or the dining room table. The Sellers were not supposed to leave the couch and the dining room table with the home. There is insufficient evidence to indicate the Respondent violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

9. 2020091731

Opened: 12/7/2020

First Licensed: 8/24/2018

Expires: 8/23/2022

Type of License: Real Estate Broker

History: 2019 Consent Order

This matter was administratively opened by the Tennessee Real Estate Commission following a referral from the Kentucky Real Estate Commission concerning the Tennessee Licensee. The Respondent is a licensed Tennessee Principal Broker.

Several Buyers purchased property with the assistance of the Respondent's affiliate broker, who was not licensed in Kentucky and who used the credentials of a Kentucky licensee to make the sale and the Kentucky licensee was aware and assisted in the representation of the client purchasing the property in Kentucky. There were seven different contracts for properties in Kentucky in which the Respondent's affiliate broker was either the listing agent or the Buyer's agent. Both the Respondent's affiliate broker and the Kentucky licensed broker collaborated to transact with their commissions.

The Complainant alleges the Respondent's Affiliate Broker engaged in the unlicensed practice of real estate in Kentucky, while using a Kentucky licensee's credentials. The Kentucky licensee appears to have aided and abetted unlicensed real estate brokering in Kentucky. The Respondent was the unlicensed individual's Principal Broker during all relevant times. The Respondent failed to adequately supervise the affiliate broker to ensure such conduct did not occur. This occurred during a lengthy time frame and the Respondent knew or should have known of the actions of the affiliate broker and failed to prevent them.

The Respondent provided a response claims to be innocent of the accusations. The accusations lack merit and are slanderous. The Respondent takes his position as a Principal Broker very seriously as well as the supervision of affiliate brokers. The Respondent was not the Principal Broker for the brokerage during the first week of January 2019 and not the Principal Broker for Kentucky at the same time. The Respondent was not even licensed in Kentucky until late December 2018. Every transaction referenced in the complainant was before the Respondent took over as the Principal Broker of the brokerage except for one possible transaction. The transaction's binding agreement date was November 27, 2018 and there were three extensions of the contract that pushed the closing to January 31, 2019. The Respondent was not aware of any negotiations between any parties in any of the transactions. The Respondent did not have access to any of the records from any of the transactions provided by the Kentucky Real Estate Commission.

Recommendation: Authorize a contested case proceeding with authority to informally settle by Consent Order and payment of a \$1,000 civil penalty for failure to supervise pursuant to Tenn. Code Ann. § 62-13-312(b)(15).

Commission Decision: The Commission accepted counsel's recommendation.

10. 2020086111
Opened: 12/14/2020
First Licensed: 6/23/1999
Expires: 2/7/2023
Type of License: Principal Broker
History: None

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

The Complainant alleges the Respondent is representing themselves as Tennessee licensed brokers and real estate agents. The Respondent is also running an illegal mortgage business primarily for residential homes.

The Respondent is a licensed Tennessee Principal Broker. The Respondent is 85 years old and has been working in the real estate industry for 70 years. The Respondent has no complaint history since being licensed in Tennessee. The Respondent has also been licensed in Alabama. The Respondent is not involved in any type of mortgage type business and does not engage in any mortgage transactions. The Respondent states these are false allegations and the Respondent does not operate a mortgage business.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

11. 2020089491

Opened: 12/14/2020

First Licensed: 12/29/1987

Expires: 3/20/2021

Type of License: Principal Broker

History: None

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

The Complainant found a home for sale in Tennessee and texted the agent about viewing the listing and requested additional pictures because the Complainant wanted to make an offer. The real estate agent contacted the listing agent on September 23, 2020 about viewing the property but was told the property could not be viewed until September 24, 2020 and the cottage could not be viewed until September 25, 2020. The Complainant made an offer on September 24, 2020 after getting the additional pictures from the real estate agent. The offer was given to the listing agent and was never given or relayed to the Seller. The offer expired unanswered. The Complainant made a counteroffer against themselves and offered \$29,001 over the asking price. The Complainant only made it as a back-up offer position as the Sellers had already accepted another offer. On November

12, 2020, the Complainant discovered the property had been sold for \$4,900 less than the listing price. The Complainant believes the Respondent waited on presenting any other offer to the Sellers to collect both sides of the commission if the Respondent their own Buyer to purchase to the property. The Respondent ignored the Complainant's real estate agent and never provided a response to the real estate agent and the offer went unanswered. The Complainant alleges the Respondent was dishonest and unprofessional.

The Respondent provided a response and stated the property in question was listed for \$249,900 on September 22, 2020. It consisted of two single family dwellings, a log home, and a small cottage. Each home was rented when the property was listed, and arrangements were made with the tenants to view each of the properties. The property was priced to sell quickly and had a very active listing. There were four showing requests on September 23, 2020 and all were denied due to scheduling conflicts with the tenants. There were five showings requested for September 24, 2020 and three showings for the 26th. The first offer was received on September 24, 2020 at 3:17 p.m. from other individuals for \$225,000 with 100% financing. It was presented to the sellers and rejected. It was sent back on September 24, 2020 at 7:53 p.m. The time limit on the contract was until September 24, 2020 until 7 p.m. The second offer was received by September 24, 2020 at 10:31 p.m. from another party for \$245,000 with 80% financing and Seller to pay \$4,000 in Buyer's closing costs and prepaids. The offer was presented to the Seller on the same day at 2:11 p.m. The Sellers rejected the offer and did not accept, counteroffer, or reject the offer within the deadline of September 25, 2020 at 6 p.m. The contract terminated. The third offer was received on September 25, 2020 at 3:03 p.m. from another potential buyer for \$210,000 contingent upon the sale of another property. The time limit on the offer was September 25, 2020. There was another offer on September 27, 2020 at 11:14 a.m. and it was presented to the Seller and rejected on September 28, 2020 at 2:33 p.m. The fourth offer was received on September 27th at 8:30 p.m. for \$230,000 Cash with a home inspection contingency. The offer was presented to the Sellers and it was countered at \$235,000 on September 27, 2020 at 10:44 p.m. It was accepted by the Buyer on September 28, 2020 at 12:12 p.m. The contract was bound at 12:30 p.m. on September 28, 2020. The Respondent was the listing agent and the sales agent for this transaction. The fifth offer was e-mailed on September 28, 2020 at 9:28 a.m. for \$269,100 with 80% financing and Seller to pay \$4,000 in Buyers closing cost and prepaids. It was presented to the Sellers on September 29, 2020 at 5:18 p.m. and countered on September 29th at 9:44 p.m. The contract terminated before the Respondent could get the signatures. The time limit for the offer expired on September 29, 2020 at 6 p.m. On September 29, 2020 at 9:25 p.m., the Complainant sent a new counteroffer and Back-up Agreement Contingency Addendum 1 for the Sellers' signature. The Sellers accepted on October 2, 2020 at 4:31 p.m. It is the Respondent's understanding the

Complainant's were concerned that their offer was not presented to the Sellers. Their offer was presented in a timely manner and the Sellers chose not to respond. All offers received were timely presented. The Sellers reviewed each offer and made their own decision. The contract expired unanswered; the Complainant had the option of increasing their offer which they did. The Respondent never held any offers to show the property to the Respondent's clients the property. This property has been on and off the market for the past six years and has been leased for the past two years. The Sellers did become frustrated with the contingency offers with conventional financing in the past because the property never closed. The Sellers were more interested in cash offers with no financial contingencies. The Complainant's contract had a financial contingency. The Respondent has been practicing real estate for the past 38 years and never had a complaint filed except for one advertising violation in the 1990's when a client without the Respondent's knowledge had placed an advertisement which was not in accordance with the real estate standards. The Respondent represents all clients in a professional manner and has been a member of the Professional Standard Board with the local regional association of realtors and the Respondent is up to date on the Code of Ethics training. The Respondent is the sole broker in the office and represents and responds to all clients and responds to all offers as quickly as possible.

There is insufficient evidence to indicate the Respondent has violated the laws and rules of the Tennessee Real Estate Commission. The Sellers decided on which offer to accept and the Respondent did not control the Sellers decision on which offer to accept.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

12. 2020092041

Opened: 12/14/2020

First Licensed: 2/11/2000

Expires: 12/3/2021

Type of License: Affiliate Broker

History: 2018 Letter of Warning

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

The Complainant alleges the Respondent insisted the Complainant sell the Complainant's house for less than the market price. The Complainant also alleges the Respondent was never available because the Respondent was always sick. The Complainant was forced to lower the price of the home from \$141,000 to \$135,000. The Respondent also assisted the Complainant purchase a home and the Respondent did not show good homes and the home the Complainant ended up purchasing had a problem with the HVAC system and after the Complainant purchased the home, the HVAC unit had to be replaced for \$10,000 and wants the Seller and the Respondent to pay for the replacement.

The Respondent provided a response and the Complainant agreed to the reduction in the price of the home and signed the necessary documents to lower the price of the home to sell it. The home was inspected, and the Complainant was aware of the issues with the HVAC system. The Seller of the home agreed to reduce the price of the home by \$2,000 for repairs to the HVAC. The Complainant agreed to the reduction in price for the repairs to the HVAC system.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2020093831

Opened: 12/14/2020

First Licensed: 2/15/2012

Expires: 2/14/2022

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 the Respondent's son rented the Complainant's townhome. During the rental period, the Complainant kept all the utilities under the Complainant's name, but the Respondent's son was responsible for the utility bills and was to reimburse the Complainant for the utility bills. The Respondent's son failed to pay the utility bills for three months. When the Complainant tried to evict the Respondent's son, the Respondent claimed the Respondent's son was not responsible for paying the utility bill.

The Complainant alleges the Respondent is dishonest and should not be a licensed real estate agent.

The Respondent provided a response. After the Respondent spoke with the Respondent's Principal Broker, the Principal Broker stated this is a personal matter. The Respondent had filed a complaint against another individual connected to the Complainant and believes this complaint was filed in retaliation.

There is insufficient evidence the Respondent has violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

14. 2020095331

Opened: 12/21/2020

First Licensed: 4/21/2017

Expires: 4/20/2021

Type of License: Affiliate Broker

History: None

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

The Complainant's Buyer made an offer on the Respondent Seller's property on November 4, 2020. After the repair amendment was submitted, the Respondent did not respond to the Complainant about the status of the repairs. The Complainant's Buyer asked for receipts and documentation as stated in the repair amendment. There was a repair amendment to "replace the sewer line." The Sellers were supposed to have the cement over the sewer line removed and a new hole dug for the new sewer line. The cement was removed, and the Seller was waiting for the sewer lines to be completed. When the Complainant and the Buyer did the walk through on December 8, 2020, everything looked completed with the sewer line, but were not provided with the receipt for the repairs. Also, there was a problem with the water in the shower draining slowly.

At the time of the walk through, the contractor was at the home working on some other repairs and the Complainant mentioned the concern about the sewer line and whether it had been done correctly. The contractor mentioned there was a video about the sewer line to the Complainant and the Buyer and asked them if they had seen the video. The contractor showed the Complainant and the Buyer the video and the video showed only a small part of the sewer line had been replaced. The Complainant again asked the Respondent for the receipt for the repairs to the sewer line for several days. It was later confirmed the Seller had only replaced seven feet of the required 42 feet. The Seller was just planning to make it appear as the work had been done completely. The cement was dug up the entire way to deceive the Buyer into thinking the whole sewer line had been done. The Respondent did not disclose this to the Complainant and hid it from the Complainant and the Buyer. The Respondent got very defensive and stopped answering the Complainant's telephone calls. There were still several repairs that had not been completed and additional time was needed. The Respondent and the Seller refused to sign the extension, so the Buyer felt forced to close before the property was ready. The Buyer's attorney had advised to close on the property and the Complainant was very disappointed about the situation. The lender had also required the repairs be completed by December 2, 2020. The appraiser went back to check on the property and none of the repairs had been done. The Respondent had several opportunities to correct the problems with the transaction and did not. The Complainant alleges the Respondent acted unethically.

The Respondent provided a response and stated the repair proposal was e-mailed to the Respondent on November 18, 2020 and the signed repair amendment was completed. The following week was Thanksgiving and the contractor advised the only thing that needed to be completed was the sewer line. The Respondent had to negotiate for the sewer lines for over 30 days. On December 7, 2020, the Respondent was told the sewer line had been completed. The Respondent asked for the receipt to be sent and the contractor never sent the receipt. The Respondent only received a letter from the sewer contractor that the work was completed. The Respondent was relying on what was told by the contractor concerning the repairs to the sewer line. The master shower drain was not draining properly due to a clogged drain trap. According to the contractor, it had been fixed while the Complainant and the Buyer had been present during the walk through. The Respondent states the repairs were completed on December 7, 2020 and the walkthrough was conducted on December 8, 2020. The Respondent is not aware of a video and has not seen the video. The contractor used for the sewer repair is a licensed contractor. The contractor was at the walkthrough to answer questions about the repair work. The line had been trenched out and the contractor found the break within the seven feet and replaced 11 feet of the line. The contractor did not recommend replacing the entire line

and they warranted the work for one year. The Seller relied on the sewer contractor's recommendations and advice. The Respondent was not consulted before the Seller made the decision to follow the recommendation of the contractor. The Respondent was unaware the entire line had not been replaced until the Respondent spoke to the contractor. The Respondent insists there was no intent to deceive or "cover up" anything concerning the repairs. The Seller and contractor relied on the advice of the plumber. The Seller did not want to sign an extension based on the Seller's attorney's advice. The Seller was not going to have the sewer line dug up again and replaced. It became clear the parties may be coming to an impasse. The Respondent did not expect the property to close, however, never received a cancellation document. The Complainant closed on the property.

This appears to be a contractual dispute between the Buyer and the Seller. There is insufficient evidence to indicate the Respondent violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

15. 2020095441

Opened: 12/21/2020

First Licensed: 7/24/2017

Expires: 7/23/2021

Type of License: Principal Broker

History: None

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

The Complainant alleges the Principal Broker had to reach out to the Respondent listing agent for a period of about three weeks with no response. The Complainant had a contract with one of the Respondent's listings and the Respondent would not respond to the Complainant. The Respondent's office phone number has an automated phone system with no return calls and only a voicemail. There is never an option to speak to a live person. The appraiser could not even get ahold of the Respondent to schedule the

appraisal appointment. The Complainant alleges the Respondent needs to answer the telephone and alleges this is a New Jersey real estate agent who is listing property in Tennessee and needs to be investigated.

The Respondent provided a response and stated the Complainant failed to identify the property in question. The Respondent was not aware of a law or rule that required the Respondent to communicate and conduct business with the Complainant by telephone. The Complainant could have arranged for the appraiser to appraise the property and the Seller's agent was not responsible for scheduling the appraisal. The Respondent stated the Complainant failed to provide all the facts. On November 11, 2020, the Complainant contacted the Respondent. When the complaint was filed by the Complainant, the Complainant was able to reach the Respondent. The listing was in closing and the Respondent responded as needed throughout the transaction.

Recommendation: Authorize a contested case proceeding and assess a civil penalty in the amount of \$1,000 for failure to exercise reasonable skill and care in violation of Tenn. Code Ann. § 62-13-403(1) and require the Respondent to take the Principal Broker Core Class within 180 days of the execution of the Consent Order with the class not count toward required Continuing Education for licensure.

Commission Decision: The Commission accepted counsel's recommendation.

16. 2020095901
Opened: 12/21/2020
First Licensed: 11/7/2016
Expires: 11/6/2022
Type of License: Principal Broker
History: None

Complainant is a licensed Tennessee Affiliate Broker and represented the Buyer in a transaction. The Respondent is a licensed Principal Broker.

The Complainant alleges on December 7, 2020, the Complainant conducted a final walk through of the property for a client. The Sellers did not make the property available until after dark on the date of the final walk through. When the Complainant arrived at the property, it was a mess and there were lots of personal items that were left in the home. The Complainant called the agent regarding several issues. The Sellers had also left a

swing set that the Buyer did not wish to assume. The Complainant's Buyers did not want the swing set. The Complainant checked on December 12, 2020 and there was no response and again on December 16, 2020. The Complainant thought the swing set had been removed, but instead the Seller's agent advised the Complainant the Seller would not remove the swing set because it was not part of the contract or repair amendment. The Complainant explained the swing set was a personal item and not an item addressed in the contract or repair amendment. The Complainant stated the Respondent has been difficult in communicating with the Complainant and was dishonest with the Respondent. The Respondent had previously indicated the swing set and other items would be removed and everything would be removed. Later, the Respondent expected the Complainant would hire someone to clean up and remove the swing set. Later, the Respondent had the Sellers pick up the personal items left in the home after the Complainant sent pictures of the items to the Respondent.

The Respondent provided a response and stated the swing set that was to be removed at the property is cemented into the ground and pursuant to the Purchase and Sale Agreement, it was intended to be included with the property. The attached fixture was not requested to be removed from the property by the Buyer. On November 24, 2020, a Purchase and Sale Agreement was bound and did not include an amendment by the Buyer to remove the cemented down swing set. The closing date occurred on December 7, 2020 without any amendments to remove the playground equipment. On December 16, 2020, an e-mail was sent by the Complainant to the Respondent requesting the removal of the swing set at the cost of the Seller.

The swing set was not affixed in cement and is considered personal property. The Respondent misrepresented that the swing set was a fixture of the property. The Respondent had specifically stated the swing set would be removed and assured the Complainant the swing set would be removed. This swing set is NOT set in concrete. Each leg of the swing set is sitting in grass. Each leg is easily picked up and moved. This swing set is a personal belonging that should have been moved.

Recommendation: Authorize a contested case proceeding and assess a civil penalty in the amount of \$2,000 for violations of Tenn. Code Ann. § 62-13-312 (1) making any substantial and willful misrepresentation and (20) any conduct, whether of the same or different character from that specified in this subsection (b) that constitutes improper, fraudulent or dishonest dealing and authorize settlement by Consent Order and payment of the civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

17. 2020096201

Opened: 1/4/2021

First Licensed: 8/29/2003

Expires: 7/26/2021

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 went to a showing of a model home on July 25, 2020. The Complainant was told to visit another model home to see a different floor plan. The agent at the other model home was advised the Complainant was going to visit the home. When the Complainant arrived at the second model home, the agent saw the Complainant's children with her and came outside and stated children were not allowed. The Respondent became very angry and stated her husband had cancer and was undergoing treatments and children were not allowed. The Complainant's 10-year-old daughter started to cry, and the Complainant's 14-year-old son had to console her. The Complainant told the Respondent everyone including the children would wear masks and the Respondent still denied them access. The Complainant put a mask on and asked her friend who was also a real estate agent to come with the Complainant to view the model home. The Complainant had her phone and was going to FaceTime with her kids because they were in the car because the Respondent would not allow them to enter. The Complainant alleges the Respondent was "fanatical" and was outraged the Complainant's friend's mask said "Tyranny" on it and the Respondent began to video record and began to mock the Complainant's friend. The Complainant's friend also began to record the Respondent. The Respondent stated that there were two clients who had COVID and told the Complainant "touch away ladies and I hope you get it." The Respondent continued to harass and record the Complainant and her friend. The Respondent also filed false reports against the Complainant's friend with the local Sheriff's Office and the Real Estate Commission and made false allegations against the Complainant about spitting on countertops and pushing her into a door well, forcing entry and posting videos of the Complainant on Facebook. The Complainant alleges the Respondent discriminated against the Complainant by denying them entry into the model home. The Complainant is appalled at the Respondent's "unstable and crazed behavior." This incident has had a negative impact on the Complainant's two children, especially the Complainant's 10-

year-old daughter who has talked to her therapist about what she saw, heard, and experienced.

The Respondent provided a response and stated the Complainant and friend became belligerent and argumentative when the Respondent requested the children not enter unless they wore a mask. There was a sign on the door of the model home that clearly asked people to follow the COVID-19 protocol for safety. The Respondent's husband is a working realtor and receiving cancer treatment and the Respondent explained this when the Complainant became argumentative about wearing a mask and not allowing children to view the model home.

The Respondent also sustained a bruise when trying to get out of the doorway as the Complainant attempted to enter the home despite the Respondent requesting the Complainant not enter and leave. The Complainant even threatened to sue the Respondent for requesting the Complainant take a mask provided at the entryway and wear it. The Respondent finally let them enter and view the home in hopes they would quickly look at the home and leave. The Complainant would not allow the kids to wear masks and this is the reason the Respondent would not let them enter the model home.

This is a dispute between the parties and the Respondent did not violate the laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

18. 2020096161

Opened: 1/4/2021

First Licensed: 10/18/2011

Expires: 10/17/2021

Type of License: Real Estate Firm

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee real estate firm and their affiliate broker represented the Complainant.

The Complainant alleges the Respondent's real estate agent breached their duty. The Complainant alleges the Respondent's agent acted in an unprofessional and dishonest manner by entrapping the Complainant to sign the Buyer's Representation Agreement online through DotLoop without the Complainant's knowledge. The Respondent's agent was not transparent and did not ask the Complainant or discuss the document with the Complainant. The Complainant alleges she was unaware the Buyer's Representation Agreement was included in the offer documents that were emailed for signature. The Respondent did not provide a copy of the documents to the Complainant after they were signed and alleges the Respondent purposely deceived the Complainant for the Respondent's own personal gain. The Complainant was unaware the agreement was signed and asked the Respondent for a copy.

The Respondent provided a response and stated the first time the Respondent learned of this entire situation after receiving a phone call from the Complainant's attorney. The Respondent was advised a civil lawsuit had been filed by the Respondent's affiliate agent for payment of real estate services. The Respondent spoke with the Complainant's attorney and claimed the Complainant had no bad intentions and was adamant the Respondent's real estate agent did not fulfill the agent's duties. The Respondent spoke with the real estate agent and the agent was adamant about fulfilling all duties and is owed the 3% commission of the purchase price. The Respondent learned the Complainant purchased the home through another real estate agent during the active period of the fully executed Buyer's Exclusive Representation Agreement signed by the Complainant.

This is a contractual dispute between the Complainant and the Respondent's affiliate broker and there is a pending civil lawsuit. There is insufficient evidence to show the Respondent violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2020097921

Opened: 1/7/2021

First Licensed: 3/19/2019

Expires: 3/18/2021

Type of License: Principal Broker 350086

History: 2020 Errors and Omissions Suspension

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

The Complainant alleges the Respondent unfairly charged the Complainant for the replacement of carpets and replacement of blinds without any evidence the Complainant or the roommate caused the damage. The lease stated that the resident will request and coordinate with the landlord to have an inspection of the residence conducted prior to the termination of the lease. The resident will be given an opportunity remedy the identified deficiencies prior to the termination of the lease. The Complainant requested in writing the opportunity to have a pre-moveout walkthrough and to be present at the move out inspection. The Complainant was not granted the request by the landlord. The Respondent has violated the terms of the lease and inappropriate charged for the replacement of the carpet and blinds.

The Respondent provided a response and stated the Complainant has been refunded all monies paid for the carpet charges and blinds. The parties have resolved all issues concerning this matter.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

20. 2020095181

Opened: 1/11/2021

First Licensed: 5/21/1986

Expires: 10/22/2021

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 Seller did not provide the correct disclosures concerning the condition of the property and the Respondent did not assist the Seller to make the proper repairs. The Respondent was supposed to get the repairs completed on behalf of the elderly Seller and misrepresented the repairs were completed to the Complainant and the Seller. The Complainant alleges the Respondent engaged in theft by deception.

The Respondent provided a response and stated the Respondent was not the Complainant Buyer's real estate agent but was the Seller's real estate agent. The Respondent stated all necessary disclosures were provided to the Complainant. The Complainant Buyer never requested any repairs to the home. An appraisal was completed and there were no deficiencies with the home. The Purchase and Sale Agreement also did not list any deficiencies and there were no requests for any repairs to the home. The Complainant did not list any deficiencies in the Purchase and Sale at any point during the transaction. There was no repair amendment. The Seller did not provide any disclosures because the Seller did not live in the property for the past three years and was exempt from providing the disclosures.

There were no repairs requested and the disclosures were not necessary and there is no evidence the Respondent violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

21. 2020090771

Opened: 1/14/2021

First Licensed: 10/5/1989

Expires: 3/3/2023

Type of License: Principal Broker

History: None

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

The Complainant alleges the Respondent willfully tried to deceive the Complainant's 93-year old mother. On or about August 1, 2020, the Complainant's Mother asked the Respondent to represent her in the sale of her home. The Respondent produced a list of 12 similar properties

sold, which were labeled as “over the last 12 months.” The list of properties was from 2009-2010. The Respondent tried to get the Complainant’s mother to list the property at \$225,000, which is more than \$100,000 less than the current market value of the home. The closing was scheduled for the sale. The Complainant alleges the Respondent intended to enlist a friend to buy the home below market value and flip it for a significant profit. The Respondent also represented the Complainant’s uncle in the sale of his home when he died eight years ago. The Complainant alleges that home was also listed below market value.

The Respondent provided a response and stated the Respondent has been a real estate agent since 1970 both in Mississippi and Tennessee. The Respondent is a managing broker. The Respondent denies any wrongdoing. The Respondent did not intentionally try to list the property at a low price for the benefit of another customer.

The Respondent did not provide a sufficient response to the allegation concerning producing the dated comparables from 2009 to 2010 and why the property was sold for \$140,000 less than the current comparables and the current market value.

Recommendation: Authorize a contested case proceeding and assess a civil penalty of \$1,000 for failure to diligently exercise reasonable skill and care in violation of Tenn. Code Ann. § 62-13-403(1) and require the Respondent to take the Principal Broker Core Class within 180 days of the execution of the Consent Order with the class not count toward required Continuing Education for licensure.

Commission Decision: The Commission accepted counsel’s recommendation to assess a civil penalty of \$1,000 for failure to diligently exercise reasonable skill and care in violation of Tenn. Code Ann. § 62-13-403(1) and also voted to add four additional violations:

Tenn. Code Ann. § 62-13-312

- (1) Making any substantial or willful misrepresentation;**
- (20) Any conduct, whether of the same or a different character from that specified in this subsection (b), that constitutes improper, fraudulent or dishonest dealing;**

Tenn. Code Ann. § 62-13-403(4)

Provide services to each party to the transaction with honesty and good faith;

Tenn. Code Ann. § 62-13-403(7)(A)

Not engage in self-dealing nor act on behalf of licensee’s immediate family or on behalf of any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of the interest

and the timely written consent of all parties to the transaction;

The Commission voted to assess a \$5,000.00 civil penalty for the above violations and require the Respondent to take the Principal Broker Core class within 180 days of the execution of the Consent Order and this will not to count toward the continuing education required for licensure.

22. 2020096521

Opened: 1/14/2021

First Licensed: 9/27/1994

Expires: 12/8/2021

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 failed to exercise reasonable skill and care in the performance of services for the Complainant. The Complainant was visiting Tennessee following the death of her husband and befriended the Respondent. The Complainant began looking for a home and after putting an offer on a property was denied the loan. The Complainant alleges the Respondent contacted the loan officer with the Complainant's permission. The Complainant asked the Respondent to stop contacting the loan officer. Later, the Complainant found a home and requested the Respondent show the Complainant the home. The Complainant had the home inspected and the Respondent attended the inspection. The Inspector found some issues with the home and the Respondent would "talk over and around the professional advice in an effort to get" the Complainant to disregard the inspection. The Respondent called the Inspector four different times to ask questions. The Respondent would also "change my words" when the Complainant would ask the Respondent to make a request to the listing agent. The Respondent continued to change the Complainant's words despite the Complainant's repeated requests to stop. The Respondent also continued to call and text the Complainant. The Complainant has over 10-20 calls and texts per day from the Respondent. The Respondent would also copy other real estate agents and loan agents in e-mail correspondence that the Complainant sent to the Respondent. The Complainant alleges the Respondent deleted a contract without giving the Complainant the chance to reply or respond during the period when there was an open contract between the Complainant and a Seller. The Respondent breached the contract and failed to represent the Complainant with "clean sanity." As a result, the Complainant lost money and

missed out on the opportunity to purchase a home. The Complainant informed the Respondent she no longer wished to work with the Respondent and requested a release form. Several days later, the Respondent responded by e-mail and stated it would be sent but failed to send it to the Complainant. The Complainant tried to reach the Principal Broker and was unable to contact the Broker. The Complainant wanted a real estate manager to oversee the situation. The Complainant was able to find the Respondent's mentor and attempted to share the Complainant's experience with the Respondent, however, the mentor did not want to get involved in the situation. The Complainant alleges the Respondent is defaming the Complainant's character because the Respondent has turned other escrow, loans and real estate agents against the Complainant and has left the Complainant to "drown for help."

The Respondent provided a response and was contacted by the Complainant who was residing in Chicago, Illinois and wanted the Respondent's assistance in purchasing a farm the Complainant had found in Tennessee. The farm had a cottage and the Complainant requested if the Respondent would find out if the Complainant could live in the cottage during the purchase process. The cottage was occupied, and the Complainant could not live in the cottage. Also, the Sellers of the property wanted proof of funds to purchase the property or a prequalification letter. The Respondent was the listing agent and agreed to show the Complainant the property as a Facilitator. The Complainant provided the loan pre-approval and the Respondent verified this information. The Complainant again asked the Respondent to ask the Sellers if they would allow a temporary occupancy. The Sellers would not agree to a temporary occupancy agreement because the property was rented through Airbnb and had bookings. The Complainant wanted to see some other properties with a minimum of five acres. The Complainant came to Tennessee with her daughter and contacted the Respondent and stated she and her daughter slept in her car and were waiting for a motel room. In the meantime, the Complainant had found another home and later made the same request for a temporary occupancy agreement. The Complainant met with the Respondent and told her she was the Empress Nubian Divine. The Respondent stated it all sounded very interesting and would like to travel to Egypt and other countries because the Respondent enjoyed the history of the region. The Complainant stated she had traveled from the Aswan and taps into uplifting vibrations from the Akashic records. When the Complainant and Respondent visited a farm, there were hens and the Complainant began to talk to the hens and asked the Respondent if they would come with the property. The Complainant did sign an Exclusive Buyer's Representation Agreement with the Respondent. The Complainant entered into a purchase and sale agreement for a property. The Complainant was to deliver the earnest money to the title company and before the title company had seen the e-mail with the Purchase and Sale Agreement sent by the Respondent, the Complainant had insisted they

take the earnest money deposit and they could not until they were aware of the transaction. The Complainant believed the title company mistreated the Complainant and demanded the title company be changed and refused to conduct business with the title company. Following the inspection of the property, there was the repair period and the Complainant began to send a barrage of e-mails with various concerns about the home inspection and there was a continuum of e-mails, texts and phone calls concerning the property from the Complainant. The Complainant kept insisting on concessions from the Seller. The demands by the Complainant were never ending and the Complainant did not understand a Repair Amendment had to be submitted and felt the e-mails with the Complainant's concerns were sufficient.

The Complainant provided an extensive rebuttal response to the Respondent's response and declared not to be a United States Citizen and claimed to be an Empress. The Complainant claims to be a "Sovereign Citizen" and is not subject to the laws and rules of the United States of America and follows AKA laws and rules.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

23. 2020097901

Opened: 1/14/2021

First Licensed: 7/25/1996

Expires: 5/27/2021

Type of License: Real Estate Broker

History: None - E&O Suspension 01/21/2021)

The Complaint was administratively opened against the Principal Broker by the Commission for failure to supervise. The Complainant in the original complaint is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent failed to inform the Complainant that the earnest money had not been received in a timely manner. The Complainant also alleges the Respondent failed to inform the Complainant that the Respondent had moved into a Facilitator role in the transaction. The Respondent is the Principal Broker in this matter

and the violation is failure to supervise the affiliate broker concerning the earnest money deposit and the affiliate failed to disclose the facilitator status in the transaction.

The Respondent provided a response and stated the error in not depositing the earnest money was due to the confusion caused by COVID-19 and the closing of the Respondent's office. The Buyer was instructed to send the earnest money in an e-mail sent on April 8, 2020 and verbally agreed to send in the money. The Respondent acknowledges this was an oversight and is apologetic. There was a provision in the contract concerning COVID-19 delays with respect to the survey and septic permit contingencies, The Respondent stated the Sellers failed to advise of the change. The Respondent provided the "Confirmation of Agency" document. This was the second "Confirmation of Agency" signed by the Sellers. The Respondent spoke with the Sellers about the change on status on each occasion. The Respondent also spoke with the Sellers about the pros and cons of going through the steps to expand the septic system and they declined to expand it. The Respondent stated the Seller is upset because the Seller believes the property to be worth more after the Buyer took the necessary steps and expenses to upgrade the septic system.

Recommendation: Authorize a contested case proceeding for failure to supervise and assess a \$1,000 civil penalty for the violation of Tenn. Code Ann. § 62-13-312(15) and authorize Legal Counsel to settle the matter by Consent Order and payment of the civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

24. 2020098361

Opened: 1/14/2021

First Licensed: 7/25/2007

Expires: 8/20/2021

Type of License: Principal Broker

History: None

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

The Complainant was represented by the Respondent in a transaction and entered a contract to purchase a home on November 5, 2020. The Buyer had a 10-day due

diligence period after which the parties mutually agreed to a repair list which had been satisfied and completed prior to closing. The closing was scheduled for December 29, 2020. On the closing date, the Buyer refused to come to the closing and demanded a survey of the property. This request was not provided prior to closing and was not made in writing and violated the contract. The Respondent denied the Complainant the earnest money of \$2,000 which was held by the Respondent's firm.

The Respondent provided a response and stated the Seller signed the Earnest Money Disbursement form. The Complainant Seller was unable to provide clear title for the transaction and agreed to the return of the earnest money to the Complainant. The "demand" for a survey on the date of closing was from the title company requiring the Seller to show that the building that had been extended into city-owned property was allowed and that the Seller had an easement for that intrusion on city-owned property. Since the Seller could not provide these documents, the Seller could not provide clear title and agreed to return the earnest money to the Buyer.

The parties have resolved the issue in this complaint. The Respondent has not violated any of the laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

25. 2021000601

Opened: 1/14/2021

First Licensed: 1/22/2019

Expires: 1/21/2023

Type of License: Affiliate Broker

History: None

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

The Complainant was looking for a home in late December 2020 in Tennessee and was viewing homes online through a website. Shortly thereafter, the Complainant received a

telephone call at 1:07 am from a telephone number belonging to the Respondent, an agent of the company website where the Complainant was viewing homes. The Respondent made five calls to the Complainant during 1:07 a.m. and 1:30 a.m. to the Complainant after 9 p.m. The Complainant alleges the Respondent violated Article 12 of the Tennessee Real Estate Code of Ethics and the Federal Do Not Call laws since the calls was made after 9 p.m. in the evening. The Complainant is currently licensed as a real estate agent in Delaware and plans to move to Tennessee and has been working on obtaining a Tennessee license. The Complainant is a Real Estate Acquisition Supervisor for the State Highway Administration. The Complainant has had over 20 years of experience in ethics courses and continuing education. The Complainant also received an e-mail from the wife of the Respondent who admitted the Respondent made all the calls.

The Respondent provided a response and stated when the Complainant logged into the Respondent firm's website, the Complainant affirmatively granted permission and consent to be contacted by telephone. When signing into the website, an individual must give consent to being contacted by telephone. The Complainant also gave consent to utilize the Respondent's website with home listings in Tennessee. The Respondent has individuals from all over the world contact them in various time zones and cannot dictate when the return call is made back to the potential client/lead concerning a home search.

There is no evidence the Respondent has not violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

26. 2020096681

Opened: 1/14/2021

First Licensed: 8/17/2012

Expires: 8/16/2022

Type of License: Real Estate Firm

History: None

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

The Complainant gave a \$1,675 down payment for a security deposit for a lease that began in March 2020. The Complainant has purchased a home and moved out of the apartment on December 5, 2020 and terminated the lease early for a penalty of \$3,350. After moving out, the Respondent's firm e-mailed the move-out report for the apartment on December 7, 2020. The e-mail also included an additional e-mail address to dispute anything on the move-out report. The report included \$600 for interior painting and \$250 for cleaning. The Complainant was not clear why the interior painting cost was so high. On December 9, 2020, the Respondent's property manager responded and stated the house was brand new when the Complainant had moved into the home and provided additional photos of the areas that need to be painted. These areas consist of small nail holes where there was wall décor and TV mounts were hung. The holes were effectively filled in and smoothed over, and \$600 is a standard charge for repainting after a tenant moves out. On December 11, 2020, the Complainant sent a final e-mail explaining the issue of \$600 worth of paint charges has not been resolved because there was no further response from the Respondent's representative and the Complainant would be taking further action. The Respondent's representative responded within a couple of hours and stated the Respondent was unsure of what else had been in dispute since the information concerning the painting charge had been provided to the Complainant. The Complainant alleges the Respondent purposefully did not communicate with the Complainant about the \$600 for painting would be charged. The Complainant received a check in the amount of \$652.98 for the Respondent for the remaining balance of the security deposit. The Complainant alleges the Respondent has taken \$1,000 of the Complainant's security deposit on top of the \$3,350 the Complainant had to pay for early termination of the lease. The Complainant claims they only lived in the home for nine months and hardly put any wear and tear on the rental home.

This is a landlord-tenant and contractual issue between the parties concerning the charges that were assessed for the repairs upon vacating the premises and security deposit monies.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

27. 2020091771
Opened: 1/19/2021

First Licensed: 11/7/2005

Expires: 11/6/2021

Type of License: Affiliate Broker

History: None

This is a matter referred from the Kentucky Real Estate Commission (“KREC”) for review. The Respondent is a Tennessee licensed affiliate broker. KREC forwarded a complaint alleging the Respondent aided and abetted in unlicensed real estate activity in Kentucky. The Respondent is dually licensed in Kentucky and Tennessee and worked with a Tennessee affiliate broker at the same Tennessee firm. The Complainant submitted portions of text messages between the other Tennessee affiliate broker and the wife of a buyer, which the Complainant contends demonstrate that Respondent was involved in negotiations, submission of contractual documents, and details involving the purchase of a home in Kentucky. The Kentucky Complainant also claimed that other buyers alleged the Tennessee affiliate broker had helped place an offer on property and then shared the offer with the Respondent who was properly licensed in Kentucky. The Kentucky Complainant submitted screenshots of portions of a text conversation between the Tennessee Affiliate Broker and the buyer’s wife in which Respondent advised the buyers that the Kentucky-licensed broker would be needed because she was not licensed in Kentucky. The Kentucky Complainant alleges he spoke with the Tennessee Affiliate Broker regarding some paperwork, and instead the Respondent put the Complainant in contact with representatives from the bank. Finally, the Complainant alleges that the Respondent received a check for several transactions in which the Respondent was either the listing agent or buyer’s agent. Complainant contends this proves that she was involved in aiding and abetting the unlicensed Tennessee broker in the Kentucky transactions.

The Respondent who is the Kentucky-licensed agent shows the Kentucky properties. Once the buyers expressed interest in a Kentucky home, they signed an agreement with the Respondent Kentucky-licensed agent, who then handled the negotiations and documents. All documents were properly executed by the Respondent Kentucky-licensed agent. Regarding the differing fee amounts, the principal broker for both the Tennessee affiliate broker and the Respondent Tennessee and Kentucky licensed real estate affiliate explained the Respondent receives a referral fee in the transactions that were set out in

the complaint. The principal broker advised that the firm had a capping policy. The Affiliate Broker was a capped associate who received 100% of commission earned. The Kentucky-licensed affiliate broker was not capped and received only 64% of commission earned. That is the reason the Kentucky-licensed agent received less than Respondent in a 50/50 split in the transactions set out in the complaint. Upon reviewing the transactions, the principal broker's explanation accounts for the differences in amounts received by Respondent and the Affiliate Broker as highlighted by the complainant.

Upon receiving the above-described complaint, KREC forwarded a cease and desist letter to the Respondent. No charges were authorized for unlicensed activity in Kentucky. Therefore, based on the information provided by KREC, the Affiliate Broker, her principal broker, and the Respondent Kentucky-licensed affiliate, Counsel does not find a violation of Tennessee rules/statutes by Respondent or any evidence the Respondent was aiding or abetting the Tennessee licensed Affiliate Broker.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

28. 2020098121

Opened: 1/19/2021

First Licensed: 2/25/2019

Expires: 2/24/2023

Type of License: Affiliate Broker

History: None

The Complainant is a Tennessee resident and Seller of property and the Respondent is a licensed Tennessee Affiliate Broker and represented the Buyer in the transaction.

There was a contract with the Respondent's Buyer, but the deal did not close because the Buyer was unable to obtain the proper financing. The Complainant alleges the Respondent violated Standard 1-9 by calling the Complainant's employer and asked for

the Complainant's phone number after unsuccessfully reaching the Complainant through Facebook Messenger.

Respondent provided a response and stated the Respondent was the designated agent for the Buyer and did not represent the Complainant Seller and never contacted the Complainant's employer.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

29. 2020098141

Opened: 2/8/2021

First Licensed: 1/13/2020

Expires: 1/12/2022

Type of License: Affiliate Broker (Retired)

History: None

The Complainant stated the Respondent represented the Complainant in a transaction. The Complainant contacted the Respondent regarding listing the Complainant's property. The Complainant had previously placed the property for sale by owner a year earlier. The Complainant previously did not want to list the property with a real estate agent because the Complainant did not want to pay the commission. The real estate agent offered to put together a market analysis as a courtesy. The market analysis never arrived. The agent had asked for the listing after the Complainant had showed the property again. The agent offered to help in a transaction where there was a Buyer with an agent. After the Complainant got engaged to be married, the Complainant contacted the agent again. The real estate agent stated there was someone who may be interested. The real estate agent advised to list the property at \$125,000 with a final sale around \$122,000. The Complainant was advised the commission would be the typical 3% for the Seller. Later, the Respondent contacted the Complainant by text message and stated it was 3% commission for the Seller broker side, but the total commission amount was 6%. There would be no closing costs for the Complainant. The Complainant attempted to contact the Respondent's broker and provided 124 photographs of the text messages. The broker offered \$1,000 to resolve the issue and the Complainant declined and asked for the 3%. The legal department of the brokerage firm contacted the Complainant after the Complainant submitted a complaint about all the parties involved. The Complainant would never list the property to pay a 6% commission to be paid solely by the Complainant. The Complainant stated it was a nightmare to open DotLoop through a

MacBook Air. It also failed to capture the Complainant's signature. The Complainant was upset the Respondent did not attend the closing and felt unrepresented at the closing and was also charged the full 6% commission.

The Respondent provided a response and stated the Complainant was represented with integrity and the best interests of the client always took priority. The text was sent as a follow-up to the Complainant because the Respondent had a feeling the Complainant was not understanding the Seller usually pays the 6% commission in a real estate transaction. The Complainant was getting married and, in a hurry, to sell and close on the property. The Complainant had a Buyer and asked the Respondent to contact the agent and the Respondent did as instructed. The offer was a full-price offer. At the end of the transaction, the Complainant had regrets about using a real estate agent to help with the transaction because the Complainant really wanted to sell the home by owner but was unable to sell the property. The Buyers even purchased the washer and dryer from the Complainant. The Complainant was difficult to work with and the Buyers were more reasonable and kept the sale together. Also, the Complainant failed to vacate the premises on the date of the closing, and this was an issue. The Complainant even told the Respondent the Complainant would highly recommend the Respondent to other people. The Respondent had to attend a family funeral out of town and was unable to attend the closing, but the Principal Broker was available in place of the Respondent. The Complainant even sent texts at midnight and 6 a.m. and made various demands about the commission being paid. The Complainant often used profanity, made demands and threats in conversations with the Respondent. The Respondent has retired the real estate license.

There is no evidence of any violations of the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

30. 2020098101
Opened: 1/25/2021
First Licensed: 5/15/2002
Expires: 1/21/2022
Type of License: Principal Broker
History: 2019 Consent Order

This Complaint is related to the previous complaint above. The Complainant is a Tennessee resident and Seller of a property. The Respondent is a licensed Tennessee Principal Broker and the Principal Broker of the Affiliate Broker in the previous complaint.

The Complainant alleges the Respondent firm who represented the Complainant in a transaction. The Complainant contacted the Respondent's agent regarding listing the Complainant's property. The Complainant had previously placed the property for sale by owner a year earlier. The Complainant previously did not want to list the property with a real estate agent or firm because the Complainant did not want to pay the commission. The Respondent's real estate agent offered to put together a market analysis as a courtesy. The market analysis never arrived. After the Complainant got engaged to be married, the Complainant contacted the agent again. The real estate agent stated there was someone who may be interested. The real estate agent advised to list the property at \$125,000 with a final sale around \$122,000. The Complainant was advised the commission would be the typical 3% for the Seller. Later, the Respondent contacted the Complainant by text message and stated it was 3% commission for the Seller broker side, but the total commission amount was 6%. There would be no closing costs for the Complainant. The Complainant attempted to contact the Respondent's broker and provided 124 photographs of the text messages. The broker offered \$1,000 to resolve the issue and the Complainant declined and asked for the 3%. The legal department of the brokerage firm contacted the Complainant after the Complainant submitted a complaint about all the parties involved. The Complainant alleges the Respondent firm and the agent failed to handle the transaction properly. The Complainant would never list the property to pay an 6% commission to be paid solely by the Complainant. The Complainant stated it was a nightmare to open DotLoop through a MacBook Air. It also failed to capture the Complainant's signature. The Complainant was unrepresented at the closing and was charged the full 6% commission.

The Respondent provided a response and stated the Respondent's agent showed the Complainant's condominium to a prospective buyer and was not able to close on the contract. Later, the Complainant solicited the Respondent's same real estate agent on

August 6, 2020 because the condominium could not be sold. The Respondent's agent prepared and presented a market analysis and gave advice on listing the condo. On August 10, 2020, the Complainant signed the listing agreement for 6% commission with 3% going to an agent who brought the Buyer. The texts between the Complainant and the Respondent's real estate agent outline the total commission being paid by the Seller. Another real estate agent represented the Buyer in the transaction and according to the listing agreement signed by the Complainant, the listing broker offered a cooperative compensation to the other broker. The listing agreement states it is an important legal document and if the Complainant did not understand it, the Complainant should have sought the advice of an attorney. On the day of the closing the Respondent was notified by the Respondent's listing agent that the Complainant had been unable to remove all the belongings from the home by the closing and the Seller was going to delay the closing to 5 p.m. instead of 2 p.m. The listing agent had a death in the family and had to attend a funeral at 5:30 p.m. and would not be able to attend the closing. The closing took place at the Respondent's offices because of the COVID-19 pandemic because the number of people would be limited to a certain amount. The Respondent let the attorney who handled the closing if he needed anything to come get the Respondent during the closing. The Respondent provided a letter from the attorney and there was no mention made by the Complainant at the closing. The Complainant later sent a text to the listing agent after closing and stated the agent had made a "clean deal." The Complainant's condominium was sold for full price and no concessions were given to the Buyer at the closing. A week after the closing the Complainant called and was irate and began to use foul language with the Respondent's Principal Broker about having to pay the Buyer's side of the commission. The Principal Broker asked for the Complainant to send all the paperwork for the closing and the all the communications with the Respondent's real estate agent. Upon review, the Principal Broker sent the Complainant an e-mail and attached the listing agreement and told the Complainant about the agreement by the Complainant to pay the full 6% commission as outlined in the contract. The Complainant was not happy with this response and sent the same e-mail to the Respondent firm's legal department and the legal department also advised that the documentation signed by the Complainant showed the Complainant agreed to the 6% commission rate to be paid by the Complainant. The Respondent firm has already paid the agents in the transaction and tried to resolve the issue with the Complainant by paying the Complainant \$1,000, however, the Complainant reused and filed the complainant against all involved parties with the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

- 31. 2020098081**
Opened: 1/25/2021
- First Licensed: 11/6/2009**
- Expires: 11/5/2021**
- Type of License: Real Estate Firm**
- History: 2019 Letter of Warning**

This Complaint is related to the previous two complaints above. The Complainant is a Tennessee resident and Seller of a property. The Respondent is a licensed Tennessee Real Estate Firm.

The Complainant alleges the Respondent firm who represented the Complainant in a transaction. The Complainant contacted the Respondent's agent regarding listing the Complainant's property. The Complainant had previously placed the property for sale by owner a year earlier. The Complainant previously did not want to list the property with a real estate agent or firm because the Complainant did not want to pay the commission. The Respondent's real estate agent offered to put together a market analysis as a courtesy. The market analysis never arrived. After the Complainant got engaged to be married, the Complainant contacted the agent again. The real estate agent stated there was someone who may be interested. The real estate agent advised to list the property at \$125,000 with a final sale around \$122,000. The Complainant was advised the commission would be the typical 3% for the Seller. Later, the Respondent contacted the Complainant by text message and stated it was 3% commission for the Seller broker side, but the total commission amount was 6%. There would be no closing costs for the Complainant. The Complainant attempted to contact the Respondent's broker and provided 124 photographs of the text messages. The broker offered \$1,000 to resolve the issue and the Complainant declined and asked for the 3%. The legal department of the brokerage firm contacted the Complainant after the Complainant submitted a complaint about all the parties involved. The Complainant alleges the Respondent firm and the agent failed to handle the transaction properly. The Complainant would never list the property to pay an 6% commission to be paid solely by the Complainant. The Complainant stated it was a nightmare to open DotLoop through a MacBook Air. It also failed to capture the Complainant's signature. The Complainant was unrepresented at the closing and was charged the full 6% commission.

The Respondent provided a response and stated the Respondent's agent showed the Complainant's condominium to a prospective buyer and was not able to close on the contract. Later, the Complainant solicited the Respondent's same real estate agent on August 6, 2020 because the condominium could not be sold. The Respondent's agent prepared and presented a market analysis and gave advice on listing the condo. On August 10, 2020, the Complainant signed the listing agreement for 6% commission with 3% going to an agent who brought the Buyer. The texts between the Complainant and the Respondent's real estate agent outline the total commission being paid by the Seller. Another real estate agent represented the Buyer in the transaction and according to the listing agreement signed by the Complainant, the listing broker offered a cooperative compensation to the other broker. The listing agreement states it is an important legal document and if the Complainant did not understand it, the Complainant should have sought the advice of an attorney. On the day of the closing the Respondent was notified by the Respondent's listing agent that the Complainant had been unable to remove all the belongings from the home by the closing and the Seller was going to delay the closing to 5 p.m. instead of 2 p.m. The listing agent had a death in the family and had to attend a funeral at 5:30 p.m. and would not be able to attend the closing. The closing took place at the Respondent's offices because of the COVID-19 pandemic because the number of people would be limited to a certain amount. The Respondent let the attorney who handled the closing if he needed anything to come get the Respondent during the closing. The Respondent provided a letter from the attorney and there was no mention made by the Complainant at the closing. The Complainant later sent a text to the listing agent after closing and stated the agent had made a "clean deal." The Complainant's condominium was sold for full price and no concessions were given to the Buyer at the closing. A week after the closing the Complainant called and was irate and began to use foul language with the Respondent's Principal Broker about having to pay the Buyer's side of the commission. The Principal Broker asked for the Complainant to send all the paperwork for the closing and the all the communications with the Respondent's real estate agent. Upon review, the Principal Broker sent the Complainant an e-mail and attached the listing agreement and told the Complainant about the agreement by the Complainant to pay the full 6% commission as outlined in the contract. The Complainant was not happy with this response and sent the same e-mail to the Respondent firm's legal department and the legal department also advised that the documentation signed by the Complainant showed the Complainant agreed to the 6% commission rate to be paid by the Complainant. The Respondent firm has already paid the agents in the transaction and tried to resolve the issue with the Complainant by paying the Complainant \$1,000, however, the Complainant reused and filed the complainant against all involved parties with the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

32. 2021000511

Opened: 1/19/2021

First Licensed: 1/16/1973

Expires: 9/13/2022

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 manages condominiums and hired a home maintenance person to perform home inspections at a condominium. The condominium HOA issued fines for thousands of dollars against the condominium owners.

The Respondent provided a response and stated the Respondent manages the condominium homeowner's association and did not hire the home inspector to perform inspections. The HOA hired the individual to check on condo owner's complying with the HOA rules. The Respondent is responsible for collecting due and payable fees and assessments. The Complainant repeatedly has filed baseless complaints against the Respondent and the Respondent has been licensed for over 50 years and has had no complaints filed with TREC.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

33. 2021001671
Opened: 1/19/2021

First Licensed: 3/4/2013

Expires: 3/3/2021

Type of License: Real Estate Firm (expired grace)

History: None

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

The Respondent sold a home and did not inform the Buyer of the deed restriction on file with the county courthouse. The Buyer was not informed of the restrictions and was not provided a copy of the restrictions. The Buyer installed a fence that was not compliant with the deed restrictions. The real estate agent should have disclosed and informed the Buyer of the deed restrictions.

The Respondent provided a response and stated the Buyers were represented by a different real estate agent and the Sellers were represented by an agent at the Respondent firm. The Buyers were presented with a Property Condition Disclosure through their agent and it was signed. The Seller also marked "YES" on the subdivision/deed restrictions. The Buyers and the agent did not ask what the restrictions were for the property and these are public record. Each party to the contract signed a disclaimer which strongly recommended the Buyers obtain an evaluation of any matters of concern and those items outside the scope of the real estate agent. The Complainant has no standing because the Complainant is not the Buyer or a Seller and has no knowledge of the transaction, the disclosures provided and the signed documents. It is unclear how the Complainant is connected to the transaction.

The Complainant did not submit any evidence to corroborate the allegations and did not disclose how the Complainant was connected to this transaction. There is no evidence

indicating the Respondent violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

34. 2020096601

Opened: 1/25/2021

First Licensed: 10/14/2010

Expires: 4/8/2021

Type of License: Principal Broker

History: 2019 Consent Order

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

The Complainant stated the Respondent manages rentals for the Complainant. The Complainant has attempted to resolve the issues directly with the Respondent and has been unsuccessful. The Respondent collected amounts for the Complainant's rental properties and the amounts on the rent roll did not match the amount deposited into the Complainant's bank account by the Respondent. The Complainant spoke with the Respondent's office manager and was told the Complainant needed to speak directly with the Respondent. The office manager was responsible for all the rent deposits. The Respondent provided an updated rent roll a month later and there was data included that had not been included in the original rent roll. There were repairs added to make the amount deposited into the Complainant's bank account to match the rent roll. The Complainant alleges the repairs to the Complainant's properties were done by the Respondent's family engaged in the construction business. The Complainant asked the Respondent for copies of the receipts and the Respondent did not provide any receipts. The Complainant also asked for copies of repairs made by other vendors and did not receive any receipts. The Complainant repeatedly asked for the receipts for all the repairs

to the property either through the family owned construction company or any other vendor. These receipts were never received. On one occasion there was damage caused by the tenant and the Respondent failed to charge the tenant for the damage and charged the Complainant for the damage. Also, all the security deposit for the tenant was returned to the tenant without making the deduction for the damage. On another occasion the Complainant had a tenant evicted for non-payment of rent and the security deposit was not applied to the rent not paid and the Respondent kept the security deposit. The Complainant was told the money had already been applied to the Complainant's rent roll and had been returned. The Complainant checked all deposits and the rent rolls and did not find any credit or payment for the security deposit from this tenant. The Complainant asked for a receipt as proof and the Respondent failed to provide a receipt to the Complainant. The Complainant has made several requests for copies of the leases for all tenants and the Respondent has not provided copies of the leases. The Complainant finally received 4 out of the 11 leases. When the Complainant decided to use the Respondent's services and transferred the property management services to another firm, the Respondent did not assist the Complainant and was not cooperative in the transfer no longer. The new property manager for the new property management firm stated that they had never had this much trouble in obtaining information from another management company. The company had been trying to obtain the tenant's information to make the move as smooth as possible. The new property manager asked for the information on multiple occasions and finally received the requested information, but two of the tenant's security deposits have still not been transferred. The Respondent also had the Complainant sign a termination form to release the Respondent from any liability and in signing would admit that the Respondent had paid all moneys. The Complainant refused to sign for the reasons listed above and the Respondent is holding the two security deposits of the two tenants as ransom until the release is signed. The new property management firm started managing the Complainant's properties on January 1, 2021 and all the information has been received, however, it was all sent late and there were extra steps that had to be taken in order to notify all tenants of the change. The \$900 security deposit of the evicted tenant has not been given to the Complainant as of the date of the filing of this complaint with the Commission.

The Respondent provided a response and stated all files are shared with the landlord and they also have access to their individual Google docs in the Google Drive format. The rent rolls change monthly based on the date and time tenants pay. The repairs, management fees, deposits are all logged in and processed. The Complainant has access to this information and often asks for e-mail copies of these documents. The access to the Complainant is available 24/7. The Respondent owns the real estate firm since April 2013 and the Respondent's husband is retired from the construction business after selling

his business in March 2018. The Respondent's husband does not perform any work on any rentals and no repairs were done to any properties by Respondent's husband at any time. The damages the Complainant alleges were done by the tenant were not found upon the walk-through inspection and photos. The paint colors in the pictures sent by the Complainant does not match the property in question and the smoke detector was attached. The second property damage was in fact an over spray of texture left on the windows when built. The tenant asked to have it removed and reattached the baseboard that had popped from the wall due to a construction defect. The additional repair was needed to reattach bathroom mirror that came loose due to poor construction. None of these were caused by the tenant. The deposit was returned to the tenant and the lease expired on April 11, 2020 and went from month-to-month. The tenant gave 30-day notice and the property was in excellent condition. In the other instance, the Security Deposit had been given to the landlord. The tenant was evicted. The original lease was with the tenant but the landlord began negotiating work to be done by the tenant which the Respondent could not be held responsible and advised the Complainant that they would have to release themselves from the contract on February 23, 2020 because the Complainant and the tenant were mutually entering into new terms. The landlord began paying the tenant to work on properties outside of any involvement with the Respondent. All leases were e-mailed to the Complainant on multiple occasions and were all forwarded to the new management company. The Complainant came to the office and picked up all keys, lockboxes, etc. The management fee is 10% and at one time, the Complainant asked for it to be reduced after stating there were two units empty and several lease purchases had not been completed. The new management company is in possession of all leases, keys, and deposits. These were all provided in a timely manner and sent to the Complainant via e-mail and certified mail and the Complainant's wife signed for all certified mails sent to the Complainant. The Respondent had never been provided a physical address for the new property manager and the owners of the new property management company failed to return the Respondent's telephone calls on several occasions. The termination agreement drawn up by the attorney to sever all ties with the Complainant prevented vendors from coming to the Respondent to get paid for work done on the Complainant's properties or charging the Respondent's account for building material and supplies. All security deposits were cashed by the new property manager. There were no deposits held by the Respondent and this is the first time the Complainant has made a claim for \$2,200. The Respondent alleges this is a false claim and a malicious attack by the Complainant. The Respondent has receipts for all rents that were paid and remitted to the Complainant. All deposits were made in a hand-written receipt book and designated for only the Complainant's properties. The deposits were recorded in a separate deposit book that was provided by the Complainant from his bank. All original leases are in files on hand in the Respondent's office. The estoppels were

signed on every property transferred to the new property manager legally notifying all tenants where to send the deposits as the law required.

This a contractual dispute between the parties. There is insufficient evidence to indicate the Respondent has violated any laws or rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

35. 2020097441

Opened: 1/25/2021

First Licensed: 3/1/1996

Expires: 11/6/2021

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and Seller of real property and the Respondent is a licensed Tennessee Principal Broker and represented the Buyers in the transaction.

The Complainant alleges the Respondent acted unprofessionally and violated the duties of a real estate agent and the Code of Ethics. The Complainant recently completed a transaction for the sale of property. The Respondent represented the Buyers in the transaction. The Complainant repaired all the interior items and notified the Buyer's agent that the exterior items were to be completed by the condominium HOA. There were several exterior windows that were part of the inspection report and became an issue between the Complainant and the HOA. The HOA denied responsibility for the windows until the Complainant pointed out to them that the HOA was responsible based on the Master Deed and By-Laws for the condominium complex. There were several e-mails exchanged between the Complainant and the property manager. The property manager notified the Respondent that the HOA accepted the responsibility for the windows and would evaluate them for repair and possible replacement. The Repair/Replacement

Proposal #1 and the Repair Replacement Amendment were completed on December 9, 2020 with the exterior repairs to be understood as the responsibility of the HOA, accepted and signed by both the Buyer and Seller. There were several e-mails exchanged between the Buyer and the Respondent about the repairs. The Respondent later sent an e-mail on December 21, 2020 stating the HOA had evaluated the windows and determined the windows had not deteriorated to the point of requiring replacement and would monitor them for future replacement. On December 22, 2020, three hours before the closing the Complainant received the ALTA statement and a call from the Complainant's agent and stated the Respondent had received notice that the HOA was denying the responsibility for the windows and that there was a handyman that would repair the windows for \$1,200 and the Complainant's agent had agreed to cover half the cost of the repairs if the Respondent would pay the other half in order to move forward with the closing. The Respondent declined to accept the proposal and stated the Respondent's commission had already been cut because the Buyer was a relative. The commission reduction was on the ALTA statement the Complainant had received. The Complainant Seller agreed to pay the \$600 to complete the transaction and close on the property so there was not a second closing delay. The Complainant went to the closing and were presented with an updated ALTA settlement statement which had taken the commission reduction back out for the Respondent. The Complainant attempted to contest the new figures based on the Complainant's previous understanding and agreement of the e-mailed copy of the ALTA. The Complainant advised the agent of the new information and updated ALTA settlement sheet figures. The Complainant's agent agreed to absorb the entire \$1,200 to complete the transaction and close on the transaction. The real estate agent advised the attorney to take the amounts out of the commission payable to the Complainant's real estate agent. Another ALTA settlement sheet was generated reflecting the commission reduction to the Complainant's agent and category for the window repairs in the amount of \$1,200. The following day the Complainant followed up on the HOA denying the responsibility of repairing or replacing the windows and requested an explanation. A copy of the e-mail was forwarded to the Respondent and it stated the HOA had accepted responsibility for the windows and replacement would come later when the windows had deteriorated to a replacement state. The HOA does not repair/replace items of concern by members of the HOA at their personnel request. It is evaluated and budgeted since all members bear a financial interest and burden in the replacement of the windows. The Complainant alleges the Respondent misrepresented the responsibility assumed by the HOA to the Complainant's real estate agent and violated the duties and ethics of real estate professionals in the State of Tennessee. The Complainant states the real estate agent should be reimbursed for the \$1,200 paid for the windows to be repaired. The Complainant is appalled the Respondent would misrepresent the facts to get an advantage for her client and falsified information for personal financial gain for the relative client. The Complainant alleges this is unprofessional and unethical.

The Respondent provided a response and stated the Respondent represented the Buyer, who was the Respondent's sister. The Respondent understands the Complainant's frustration with the transaction; however, the Respondent is not at fault. The Respondent contacted the listing agent on November 9, 2020 and asked if the property was available. The listing agent stated it was under contract, but the deal may fall through. The property became available on November 11, 2020 and the Respondent submitted the offer on November 11, 2020. The Respondent never received a response from the listing agent and had to call the principal broker to clarify if the property was still under contract and why it was listed as active in the MLS. The property was originally listed on October 23, 2020 and never was changed in RealTracs or MLS to pending until November 12, 2020. The Repair Request Proposal was sent back to the Buyer and the parties agreed to the repairs on December 9, 2020. The agreement was the Seller would take care of all interior items that needed to be repaired and the HOA would take care of all exterior items. On December 13, 2020, the listing agent notified the Respondent by text that all Seller items to be repaired were completed. The list was sent to the HOA and the HOA responded that the items would be taken care of, except the windows. When the HOA realized the windows were included in the master deed, it was brought before the Board. The listing agent and the Respondent both received the same e-mail dated December 14, 2020, the Association President. The master deed stated "excluding windows and doors" in the deed description of common elements in the documents. On December 17, 2020, the Respondent asked the Association President for an update on the windows and the Association President responded and stated he was in contact with the current owner of the property and the HOA Treasurer regarding the fogged window sashes at the property. The windows would be evaluated by the HOA. The listing agent and the Respondent discussed that the Buyer was adamant the windows be repaired before closing and this would be a deal breaker for the contract. The Respondent and the listing agent obtained a quote for repair of the windows. The windows were a common point of contention between the buyer and seller. On December 21, 2020, the Respondent received an estimate from the window expert about the replacement of the fog glass rather than replace the entire window and forwarded it to the HOA and the listing agent. The Seller wanted to wait on the response from the HOA. On December 21, 2020, the listing agent and the Respondent received an e-mail from the HOA and stated the deterioration to the point of requiring replacement of glass at the property will not be undertaken and stated the HOA will monitor replacement in the future when the glass condition warrants replacement. The Respondent called the listing agent to tell him the deal was probably over because the Buyer would not agree to not having the windows fixed and would not close if the windows were not repaired. The Seller was under no contractual duty to fix the windows. The listing agent stated the Seller wanted to complete the deal and may agree to fix the windows. The listing agent called the Seller back and stated the listing

agent would pay half the cost of the window repair and the Seller agreed to pay the other half. The Respondent was unaware the closing attorney received an incorrect settlement sheet. The version sent was not approved by the lender and not a final settlement sheet. The listing agent had to resent the settlement sheet several times and the Respondent attempted to reduce the commission by 1% for the Buyer to allow it to be used for closing costs. The lender would not allow the Respondent to do it and the 3rd and 4th settlement sheet showed the Buyers numbers back to the full closing cost amount and had reduced the Respondent's commission by 1% and credited it to the Seller, which the Respondent immediately asked to be credited and new version sent to all the parties. The final settlement sheet approved by the lender and the Buyer were sent on the closing day about three hours before the closing. The Respondent had no way of knowing the Seller had received any settlement sheets or an incorrect settlement sheet showing the Seller had proceeds \$2,100 more than the actual settlement amount. The Respondent did not send this to the Seller and was not hired to represent the Seller. The window invoice was paid directly to the window repair man for \$1,200 by the Seller by check to be given to the Buyer to give to the window repairman after the closing due to the late decision by the HOA. The invoice was on the settlement sheet as a debit to the Seller. The Respondent did not notice the listing agent's commission. The Respondent went to the closing attorney's office of the closing and sat through the Buyer signing the closing documents. The attorney returned during the closing to say the Seller was made about the \$600 window cost and refused to close. The listing agent was not present, and the Respondent called the listing agent. This was when the Respondent learned the Seller was given an incorrect settlement sheet and did not know until the Seller came to the closing that the sale proceeds would be less. The Respondent left the closing attorney's office with the impression the closing would not take place and the later, the listing agent confirmed the property had closed.

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

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

36. 2021000061
Opened: 1/25/2021
First Licensed: 9/29/2014
Expires: 9/28/2022
Type of License: Affiliate Broker
History: None

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

The Complainant alleges on December 19, 2020, a property was shown to a Buyer and the Buyer wanted to make an offer. The Complainant contacted the Respondent listing agent by telephone, text and e-mail requesting the property condition disclosures and never received a reply or the disclosures. The Complainant wrote the offer with one of the contingencies being the Buyer view the disclosures. The offer was submitted on December 20, 2020 and on December 21, 2020, the Respondent listing agent texted the offer was received, and the Seller was reviewing the offer. The deadline ended and there was no communication from the Respondent listing agent as to whether the offer was accepted, countered, or rejected. The Complainant texted the Respondent and never got a response. After calling and texting the Respondent with no response, the Buyer placed a second offer on December 22, 2020. The second higher offer was e-mailed to the listing agent and the Complainant again asked for the property disclosures and never received them. The Respondent did respond by text stating the offer had been received. On December 24, 2020, the Respondent stated the offer was too low and the Sellers expected a full price offer incoming in the next few days. The Complainant attempted to call the Respondent and left a voicemail message. The Complainant requested the Seller sign the offer as rejected. To date, the Complainant has still not received any documentation proving the offer was presented to the Seller and it was rejected. The list price for the property was \$399,999 and the Complainant's client offered \$385,000. The Complainant alleges the Respondent violated Rule 1260-02-.08.

The Respondent provided a response and stated the offer was first received in the amount of \$365,000 on December 20, 2020. On December 21, 2020, the Respondent sent a text message to the Complainant stating the offer had been received and the Seller was

reviewing it. On December 21, 2020, the Complainant sent another text stating the deadline had passed on the offer the client submitted and a second offer was submitted in the amount of \$380,000 on December 22, 2020. The Respondent e-mailed confirmation of receipt of the offer. The offer was extremely low, and the Seller had no interest in engaging with the Buyer because they were in the process of negotiating a much more appealing offer. On December 24, 2020, the Respondent e-mailed the Complainant and stated the offer was too low and the Seller was expecting a full price offer in the coming days and will contact if it does not pan out. The offer had expired, and the Respondent told the Complainant the Seller was not interested in the offer. There had been multiple offers and it was not feasible for the Seller to take time out of his day to sign rejected offers that had already expired. The Complainant sent another e-mail on December 24, 2020, stating that most realtors the Complainant had worked with send the offer back signed by the Seller as rejected and requested the Respondent have the Seller sign the offer as rejected. When the Respondent received this e-mail, the Respondent was out of town celebrating Christmas with his family. Due to the Nashville bombing, the Respondent's client was in Florida and communication was difficult. The Respondent had promptly presented each offer to the Seller, who had rejected each one. The Seller elected to allow the offers to expire on their own terms. The Respondent had notified the Complainant the Seller was not interested in the offer. This potential transaction occurred in Nashville which was 65 miles away from where the Complainant was conducting business. The Respondent had never received a "rejected" offer from an agent in the Greater Nashville real estate market during a multiple offer situation.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

37. 2021000851

Opened: 1/25/2021

First Licensed: 3/12/2014

Expires: 3/11/2022

Type of License: Affiliate Broker

History: None

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

The Complainant alleges the Respondent has had an “Under Contract” sign in the yard of a home since the previous week and there is no listing in the MLS regarding the property since it last closed in 2016. The Complainant had a client who is actively searching for a home in the area and asked about the property and why they had not received notification that had been an active listing and the Complainant he was not aware of the listing. The Complainant alleges this is a violation of fair participation. The Complainant reached out to the Respondent and received no response.

The Respondent provided a response. The Respondent included the listing agreement for the property and the Purchase and Sale Agreement to explain the timeline of the transaction. On December 10, 2020, the Respondent met with the Sellers to discuss listing the home. The Respondent is also the Buyer Agent for these same Sellers who are building a new residential construction. The Respondent met with them on their back patio with face masks. After discussing the listing process and most recent comparables in the area, the Respondent walked through the home and conducted a self-guided walk through of the home’s features. There were a few minor things that needed to be completed. The home was 99% ready to photograph and show and the photographer could be scheduled in the next few days. The home was spotless, well-maintained, and lacked clutter. The Seller advised they were planning to visit their new granddaughter that was born on Thanksgiving Day in Pennsylvania. They had decided to self-isolate themselves from visitors and any public spaces to minimize any change of contracting the virus before driving to visit their granddaughter. The home could be listed whenever they felt comfortable after they returned from Pennsylvania. After the meeting with the Seller, the Respondent received a call from the Respondent’s managing broker. The Managing Broker asked if there were any homes listed with a particular floor plan listed or coming soon. The Respondent advised he was just leaving a home with the floor plan. The Managing Broker was four or five houses away with some other Buyers and the Buyers were not happy with the floor plan of the home or the large retaining wall in the home’s backyard and asked if there was any chance, the Managing Broker’s client could see the home the Respondent had just visited. The Respondent called the clients from in front of the home and asked if it was possible to show the home right away even though there had been no listing agreement signed and the listing timeline had not been established. The clients agreed to show the home within 10 minutes. This gave the Respondent’s client enough time to change clothes and to go for a run around the neighborhood which would allow the Managing Broker’s clients to see the home. The Respondent was not prepared to show the home and did not have a key. The prospective Sellers left the door unlocked for the Managing Broker and the clients. The Respondent agreed to wait across the street while the Managing Broker and her client toured the home together. At the conclusion of the showing, the Managing Broker and her clients

left the home and the Respondent waited for the client to return from their run. The Respondent and the Sellers laughed about the situation and the Respondent told the Seller, he would be in touch with them. Later that afternoon, the Managing Broker stated the clients were taking a day or so to think it over and decide. On December 11, 2020, at 5:57 a.m., the Respondent received a text from the Managing Broker and notified the Respondent of the impending offer. The Buyers had signed the Purchase and Sale Agreement the night before at 10:34 p.m. on December 10, 2020. The Respondent contacted the Seller that morning and notified them of the offer and were very pleased. The Sellers were very concerned about placing the home on MLS and having potential Buyers walk through the home and possibly transmit the COVID-19 virus to them because they are both in their 70s and in a much higher risk category than others. Also, the Sellers did not have to expose themselves and possibly infect their family during a visit to see their granddaughter in December 2020. The Sellers were not ready to list the home on MLS until after they returned from their trip and did not want a yard sign until they notified neighbors and friends, they were going to sell the home. The Respondent had an obligation to present the offer to the client despite not having a signed listing agreement in place. The Sellers signed the listing agreement on the same day the offer was submitted. The Purchase and Sale was also signed on the same day of December 11, 2020. Following their acceptance, the document was sent to the Buyers' Agent and bound on the same day. The Respondent did not violate the Fair Participation or Clear Cooperation rule. The Respondent always acted within the parameters of the clients' directives and concerns. The home was not advertised as For Sale or Coming Soon to anyone at any time. The Respondent placed the "Under Contract" sign in the yard after the home inspection and the due diligence period had expired. There was no sign placed when the property went under contract. The Respondent never advertised the home for sale and the Respondents' clients were not interested in showing the home to others or accepting back-up offers.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

38. 2020097721

Opened: 2/1/2021

First Licensed: 12/8/2008

Expires: 9/6/2022

Type of License: Principal Broker

History: None

The Complainant is a New Jersey resident and the representative for the real estate investment

firm and the Respondent is a licensed Tennessee Principal Broker representing the Seller.

The Complainant Buyer alleges the Respondent committed fraud. The Respondent provided the Complainant with one contract to sign and gave the Seller a different contract to sign. The contracts were for different amounts. The Complainant alleges the Respondent took monies without an owner's authorization. This money was applied to outstanding back taxes owed. The Complainant alleges the Seller was misled and understood the Respondent to be the owner of the Buyer's real estate investment firm.

The Respondent provided an extensive response. The Respondent never provided the Seller a different contract to sign. During the early stages of the negotiation, the Complainant representative for the Buyer demanded certain terms from the Seller and therefore, an Owner Finance Contract and a Promissory Note was executed based upon those terms. Those terms included the monthly payment, the interest rate charged throughout the transaction and the total amount of the purchase price, etc. The Respondent presented such documents to the Purchaser, which were declined. The next step was to return to the drawing board and prepare documents which suited the Purchaser. The first set included some terms not suitable to the Purchaser, creating the need for yet another version of the documents. At some point, the documents became agreeable to the Buyer and signed the Purchase and Sale Agreement. Each time the documents were prepared, they were forwarded to both the Buyer and the Seller, via the personal representative throughout the transaction. The Respondent did advise the Complainant when the Seller had signed the agreement and he would be returning it to the Respondent via e-mail. The agreement was initially for the purchase of one property and stated the purchase price the Seller was requiring was for one property. Shortly after the Buyer agreed to purchase the property, the Seller advised the representative to inform the Respondent of an additional property. The Purchaser was also interested in purchasing the property resulting in an increase in the total purchase price. The Complainant has insisted there be one contract for the Purchaser. There were merely different versions of the agreements and the parties were not provided different contracts. The Complainant Buyer signed the correct version of the Owner Financing Agreement that suited the Complainant's personal wishes. No other draft versions were signed. When the Buyer requested a copy of the Note or any document, the Respondent reached out to the Seller's representative requesting the document with the Seller's signature be returned to the Respondent. The Buyer did wire the down payment of \$11,000 for the purchase of the two properties. There was urgency in completing the transaction as the property was scheduled to be sold in a tax sale within a few weeks. It is not accurate that the entire down payment was applied to delinquent property taxes of the Seller. The tax payment was demanded by the County Tax Assessor's Office. There were other fees that had to be paid immediately in cash at the Assessor's Office. The remainder of the funds of approximately \$7,000 were to be provided for the Seller of the properties. The Seller did not believe the Respondent was the owner of the Complainant's property investment firm. The Complainant Buyer was shown several properties ranging from \$16,000 to \$40,000 and the Buyer made offers ranging from \$2,500 to \$4,000 on the properties and requested owner financing on the properties. The listing agents were not happy about the insulting offers and even told the Respondent to never show their listings again. The Respondent did not have a great deal of interaction with the Seller. The Respondent deal with the Seller's representative most of the time during the transaction. The Seller was frail and had cancer and had been ill for an extended period. The title company also could not provide a warranty deed

because of the inability of the title company to be able to read the old deed. The title company was not going to be able to complete the closing on the property and provide the Buyer with a clear title in the form of a Warranty Deed due to the excessive outstanding property taxes and penalties on each of the properties. There were no clouds on the title and even with a payment in full of all these outstanding tax amounts, the title company would be able to prepare the document and close the transaction. The Complainant insisted on proceeding with the purchase and the Respondent and the Seller's representative discussed preparing a Quit Claim Deed to add the Purchaser's name to such deed to protect the Purchaser's financial investment in these two properties. The Seller was moving to his Son's home. The draft versions prepared by the Respondent stated the Seller would be responsible for making the payments of the property taxes. Once the Seller's health was revealed, the verbiage was revised removing the Seller's obligation to make monthly payment toward property taxes. The statement is correct regarding being notified the Seller was demanding a large portion of the down payment for him to move from the property. The Respondent was made aware the Seller had been in contact with the Shelby County Tax Assessor's Office who had set out a repayment plan of the property taxes to prevent the scheduled tax sale for occurring. The Respondent followed the demands of the tax assessor's office who set out a repayment plan of the property taxes to prevent the scheduled tax sale from occurring. The Respondent did not make any arrangement on her own. The Respondent was aware what was going on with the outstanding taxes throughout the entire transaction. The Complainant does owe the Respondent amounts for the bank charge and for the tax payment. The Complainant was advised of this in July 2020 and there have been only unpleasant messages from the Complainant regarding the responsibility to return the money to the Respondent. The Buyer has filed a lawsuit against the Respondent; however, this matter is still pending and there has been no finding made against the Respondent. The Complainant seeks the return of the investment, so the Complainant does not have to continue to make the additional monthly property tax payments. It would have been much simpler for the Complainant to advise the Respondent to locate another purchaser for the properties if the Complainant no longer wanted the properties.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2021007291

Opened: 2/1/2021

First Licensed: 10/26/2016

Expires: 10/25/2022

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 after accepting a sales agreement for real property, the Complainant discovered the party signing the agreement for the Seller's estate did not have the Power of Attorney (POA) and the contract was invalid. The Complainant spent over \$1,600 in appraisals and inspection in preparation to purchase the home. The Complainant would like the Respondent to return these amounts for failing to perform professional due diligence in verifying the power of attorney.

The Respondent provided a response and stated this was an open estate. There were five heirs. There was one heirs died and there were still four living. The Respondent was dealing with the one of the heirs and had stated they held the POA and signed all the documents. When the Respondent got to the title company, the title company found an IRS lien on one of the brothers. This combined with the wrong POA stopped the sale. The property has been acquired by a court ordered auction and the contract was not signed by all the parties and the Complainant could not close on the property. The Respondent blames the heir for not being honest about who held the POA.

Recommendation: Authorize a contested case proceeding and assess a civil penalty in the amount of \$1,000 for failure to exercise reasonable skill and care in the transaction pursuant to Tenn. Code Ann. § 62-13-403(1) and authority to settle by Consent Order and payment of the civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

40. **2021003731**
Opened: 2/8/2021
First Licensed: 1/17/2020
Expires: 11/16/2022
Type of License: Affiliate Broker
History: None

This complaint was filed against the Respondent concerning an improper name being used and an advertising violation. An Agreed Citation was issued by TREC for the advertising violation. The original complaint alleges the Respondent is operating in a name other than the licensed name and this is resulting in individuals not believing the Respondent is licensed. There are also other actions conducted by the Respondent that the Complainant alleges is outside the Respondent's professional career and is alarming and causing issues. The Respondent is also claiming a listing posted on Instagram and Facebook belongs to the Respondent.

The Respondent's Principal Broker provided a response and stated this is a new agent and there have been two complaints filed against this new agent in two days. This new affiliate broker has not conducted any business or completed any transactions. It appears these are retaliatory

complaints used to harass the Respondent because of a personal situation involving her fiancé and his ex-girlfriend who along with the ex-girlfriend's mother are both real estate professionals. The Respondent's name in the application had been submitted with the maiden name and the married last name to the board. The Respondent has been in the process of reverting back legally to the Respondent's maiden name which was never removed from the Respondent's legal name. The social security card and paperwork has been submitted to the TREC with the name being used and the name should have now been legally changed. COVID-19 pandemic kept this from happening quicker. The Respondent is not engaged in doing "things outside of her professional career that is alarming and causing issues." The Respondent is a young Mom with a six-month-old child trying to start a career and business and is being harassed and targeted because of an unrelated personal situation. The listing being advertised by the Respondent belongs to the Principal Broker and has permission to market the property. The Principal Broker has advised the Respondent to use the full original name with the maiden and last name until the name is properly corrected in the TREC database.

There is insufficient evidence to indicate the Respondent has violated the laws and rules of the Tennessee Real Estate Commission.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2021003641

Opened: 2/16/2021

First Licensed: 11/17/2020

Expires: 11/16/2022

Type of License: Affiliate Broker

History: None

This complaint is related to the previous complaint. The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Affiliate Broker.

The Complainant alleges the Respondent is operating in a name other than the licensed name and this is resulting in individuals not believing the Respondent is properly licensed and a scam. There are also other actions conducted by the Respondent that the Complainant alleges is outside the Respondent's professional career and is alarming and causing issues. The Respondent is also claiming a listing posted on Instagram and Facebook belongs to the Respondent.

The Respondent's Principal Broker provided a response and stated this is a brand-new agent and has had two complaints filed against this new agent in two days. The affiliate broker has not conducted any business or completed any transactions. It appears these are retaliatory complaints used to harass the Respondent because of her personal situation involving her fiancé and his ex-girlfriend who along with the ex-girlfriend's mother are both real estate professionals and may have targeted the Respondent. The Respondent's name was submitted with the maiden name and the married last name to the Commission. The Respondent has been in the process of

reverting back legally to the Respondent's maiden name which was never removed from the Respondent's legal name when the Respondent got married. The social security card and paperwork has been submitted to the TREC with the name being used and it should be legally changed now. COVID-19 pandemic kept this from happening quicker. The Respondent is not engaged in doing "things outside of her professional career that is alarming and causing issues." The Respondent is a young Mom with a six-month-old child trying to start a career and business and is being harassed and targeted. The listing being advertised belongs to the Principal Broker and the Respondent had permission to market the property. The Principal Broker has advised the Respondent to use the original name including the married name until the name is properly corrected in the TREC database.

Legal Counsel attempted to determine who filed the complainant and it appears the Complainant does not exist in Tennessee and the address provided in Tennessee does not have street number just a street name and there is no individual residing at this street address with the name of the Complainant. There was insufficient supporting evidence or documentation concerning the allegations made against the Respondent.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2021006971

Opened: 2/8/2021

First Licensed: 4/19/2012

Expires: 4/18/2022

Type of License: Affiliate Broker

History: None

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

The Complainant was a former affiliate broker with the Respondent's firm and the Respondent asked the Complainant to partner with the Respondent in an investment project for a property renovation. The Respondent is engaged in various property renovations projects and indicated if the Complainant partnered with the Respondent on the project that if the investment was \$30,000, that within 20 days the third draw of the construction loan was \$35,000 and the Complainant would be repaid. On July 26, 2018, the Complainant signed an agreement with the Respondent. The Complainant alleges the Respondent breached the contract by not paying back the initial investment. The Complainant stated the Respondent engages in nonethical real estate practices, such as offering non-licensees monetary rewards if individuals bring the Respondent a Seller.

The Respondent provided a response and stated the Respondent works with investors on purchasing properties and the Respondent relayed an investment deal to the Complainant. The Respondent entered an investment transaction with the Complainant and used the funds to

complete a project. The Respondent claims the IRS suddenly came in and threatened to take all the profits after the proposed closing. The Respondent informed the Complainant and the Complainant wanted the return of the amounts loaned. The Respondent attempted to settle with the IRS and pay all the loans. The other investors understood the Respondent's hardship. The Respondent claims his credit is ruined. The Respondent claims there were a series of events that hit the Respondent and created financial problems for the Respondent. The Respondent sold the property and did not take advantage of building a second home on the property. The IRS made an agreement with the Respondent, however, two days before closing the IRS changed their mind because the title company made a mistake which created a red flag and the IRS took all the money from the closing and almost resulted in the Respondent going bankrupt. The Respondent's home went into foreclosure and the Respondent could no longer float the real estate office and moved the office to a commercial home office in North Nashville and the Respondent has been trying to rebound since this happened. The Respondent lost over \$150,000 in cash and everything the Respondent has worked for during the past decade. The Respondent divorced and lost everything. The Respondent lost his life, his wife, his storage unit, his valuables, his reputation, his pride, etc. The issues related to the money have nothing to do with the real estate business or the affiliate license. The Respondent alleges this is a lost wage issue and the Respondent will make it right.

Recommendation: Authorize a contested case proceeding for violations of Tenn. Code Ann. § 62-13-312 (1) making any substantial and willful misrepresentation; (5) failing to account for or to remit any moneys coming into the licensee's possession that belong to others; (20) any conduct, whether of the same or different character from that specified in this subsection (b) that constitutes improper, fraudulent or dishonest dealing; and Tenn. Code Ann. § 62-13-403(7)(A) Not engage in self-dealing nor act on behalf of licensee's immediate family or on behalf of any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of the interest and the timely written consent of all parties to the transaction; and assess a civil penalty in the amount of \$4,000 with authority to settle by Consent Order and payment of the civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2020096401

Opened: 3/1/2021

First Licensed: 3/21/2001

Expires: 8/12/2020

Type of License: Real Estate Firm (closed)

History: 2020 Close and Flag with Compliance Order in Default

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

The Complainant stated the Respondent managed property from 2005 to 2019. There were no issues with rents being collected and being delivered to the Complainant's bank account. In 2017, the Respondent began to have some problems with having the rents deposited into the

Complainant's bank account. After a couple of months, the Complaint inquired and was told there was a timing issue and then checks would be sent for multiple months. The Respondent stated employees were sick and the Respondent was having issues with people working the office. The amount of time that the rents would not be properly deposited into the Complainant's account began to get longer and longer. There was \$15,000 outstanding and the Respondent's employee disappeared and left the state and had moved to Florida in 2019. The Complainant changed property managers and contacted an attorney and was told there were multiple other property owners in the same situation and had left the Respondent firm. The Complainant lives out of state and decided not to pursue legal action, The Complainant believes the Respondent's employee may not have been licensed and is a criminal. The Complainant also plans on reporting the Respondent's employee to Florida licensing authority.

Respondent's Affiliate Broker handling the transactions at issue died on December 22, 2019. The Respondent's firm license has expired and there is no longer a Principal Broker for the firm. The death of the Affiliate Broker was confirmed by a former associate that worked with the Respondent. There was no funeral or obituary for the Affiliate Broker and the Affiliate Broker's license has also expired. As of March of 2020, there has been no estate for the Affiliate Broker had not been offered for probate.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES

44. 2020084541

Opened: 12/7/2020

First Licensed: 1/25/2013

Expires: 1/24/2022

Type of License: Time Share Registration

History: None

Complainant is a Tennessee resident and the Respondent is a Time Share Registrant in Tennessee.

The Complainant entered a contract on June 3, 2013 and has paid \$5,313 and wants the Respondent to cancel the contract.

The Respondent provided a response and stated the complaint is against a resale company that sold the Complainant the timeshare week at the Respondent's resort. The Complainant purchased the week at the Respondent's resort through the reseller and enrolled in a program to enhance the travel options to allow the staying at other resorts. The Complainant cancelled their enrollment in the program in 2019 and are now seeking to make reservations at the Respondent's resort by following the flex reservation protocol. The Complainant should contact the resale company to resolve the issue. The Respondent does not buy or sell vacation weeks.

There is no evidence the Respondent has violated the Tennessee Timeshare Act of 1981.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

45. 2020087011

Opened: 12/7/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration (Time Share Exempt)

History: None

The Complainant is a Virginia resident and timeshare purchaser. The Respondent is a licensed Tennessee Time Share Registrant.

The Complainant alleges the Respondent engaged in wrongdoing and wants to cancel both contracts and a full refund. The Complainant entered the contract on June 3, 2019 in the total amount of \$18,000. The Complainant alleges the Respondent told the Complainant several falsehoods concerning the timeshare. The timeshare salesperson indicated the timeshare would be an investment and the Complainant would be able to sell it for a profit. This was untrue. The Complainant was also told the timeshare could be rented and the Complainant would be able to take two to three vacations a year for two to three weeks at a time. The Complainant was only able to book a couple of days at a time to the resorts. Also, the Complainant had to book through third-party vacation club and pay extra fees on top of the normal monthly timeshare fees to make the exchange through a network of properties and resorts. The Complainant was only able to get a full week once and it took four years to get the timeshare. The Complainant also alleges it took three years to book a three-day vacation in Tennessee. The Complainant attended an owner's update meeting and the Respondent persuaded the Complainant to purchase additional points to get a better experience with the timeshare. The Complainant alleges the Respondent continued to pressure the Complainant to make the purchase and the Complainant was going through a

divorce and this made things more complicated for the Complainant. The Respondent stated the monthly payments would be the same and it would be a better contract. Also, the monthly maintenance fee that had increased by \$90 per month. There was also a new contract. The Complainant cannot keep up with the payments any longer. The Complainant feels trapped and does not know how to resolve this matter.

The Respondent provided a response and believes the Complainant may have been advised by a third-party or come across information on how to cancel contracts with the timeshare companies. The Respondent has reviewed the entire file to review whether the allegations can be substantiated. The Respondent states often these type of time referenced issues is difficult to substantiate. There is often not detailed information specific to an individual owner's experience. Sometimes, the owner is experiencing financial hardship unrelated to the sales representation made or the service being provided. In the absence of specific verifiable details in the complaint, the Respondent must rely on the signatures of the parties that acknowledge an understanding and agreement to the terms of the purchase. Often, a guest will attend a sales presentation and receives a gift as an incentive for attending. The sales presentation or owner's update does provide for an opportunity for the guests to review their options for either a new or additional purchase. A tour guest is only obligated to attend the sales presentation for the designed period based on the terms and conditions of the agreement. The length of a presentation can vary depending on the guest's interests and inquiries. A guest may leave as desired and at their own discretion. The purchase options and terms vary from one sales office to another. The purchase price and maintenance fees can also vary depending on the product and the assigned ownership allocation. The timeshare is subject to availability and prices and is subject to change. On July 6, 2013, the Complainant purchased an undivided interest in a timeshare in Tennessee and received an annual allocation of 84,000 points. The purchaser applied a "Bill Me Later" account and this is an open-ended credit plan issued by a bank. Upon approval, the Complainant signed and received the sales charge receipt in the amount of \$3,000 using the "Bill Me Later" account toward the down payment for the timeshare. The charge receipt for \$2,986.11 was also signed by the spouse using the "Bill Me Later" account to satisfy the remaining down payment. The applicants are provided all necessary disclosures at the time of the purchase and all subsequent details concerning the account were to be provided by the bank. The Complainants also signed and received the Preauthorized Auto Pay Plan Set-up form that authorizes the Respondent to charge and pay the monthly loan payment of \$151.94 plus a monthly assessment of \$39.91 and annual perks membership renewal plan of \$59.95. In June 2019, the Complainant purchased another timeshare contract and received an additional 84,000 points. The Complainant applied for a credit card and was charged \$5,139.70 and satisfied the down payment and fees. The Complainant signed and received the Preauthorized Auto Pay Plan Set-up form and authorized the Respondent to charge and pay the monthly loan payment of \$190.06, the monthly assessment of \$54.85 and the annual perks membership assessment payment of \$59.95. The amount of a vacation depends on the number of points allocated to a member's ownership interest and how the points are used. The contract documents signed and received by the Complainants fully disclose the agreement between the parties. The Buyer's Acknowledgment, Ownership Review and Quality Assurance Review are all completed and signed at the time of purchase. These documents are used to assist a purchaser to avoid any misunderstandings and to aid them in understanding the product they are purchasing. There are specific written disclosures concerning ownership, discount, down payment, monthly club assessments, loan payments, programs, resale

assistance, rental income, investment, and tax benefit. The purchasers are given rescission rights that provide the opportunity to carefully review and reconsider all provisions in the contract. The Respondent did not find any information that substantiated the allegations set forth by the Complainant. The Respondent declines to cancel the contract. The Respondent indicated the Complainant's account is severely delinquent and considered in breach of contract for both timeshare contracts.

There is insufficient evidence to indicate the Respondent has not violated the Tennessee Timeshare Act of 1981.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

46. 2020088161

Opened: 12/7/2020

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration (Time Share Exempt)

History: None

Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Time Share Registrant

The Complainant's attorney filed the complaint on behalf of the Complainants alleging this matter is a case of rightful rescission for the Complainant. The attorney alleges the Respondent is wrongfully and unlawfully attempting to prevent the Complainant from exercising the contractual and statutorily applicable right of rescission on the contract. On October 6, 2020, the Complainant attended a six hour meeting held by the Respondent in Tennessee where trained sales personnel employed deceptive and predatory timeshare sales techniques to induce the Complainant to sign the closing documentation without review or explanation of the documents including the public offering statement. As a result, the Complainant's attorney stated the rescission period remains in effect. The Complainant's attorney claims the sales team did not provide him with a copy of the closing documents at closing and gave the Complainant an USB flash drive with the closing documents. The Complainant found the flash drive did not have the contract documents and immediately contacted the Respondent. The Complainant's attorney alleges the Respondent engaged in stall tactics to allow the rescission period to run. The Complainant's attorney alleges the rescission period started on October 6, 2020 and the rescission notice was provided on October 21, 2020. Tennessee state law states a contract may be cancelled within ten days from the date of the signing of the contract where there is an on-site inspection of the time-share project or any component site before signing the contract and if there is no inspection of the site there is a 15 day rescission period from the date of the signing of the contract. The Complainant's attorney alleges the Complainant did not have an on-site inspection and therefore, there is a 15 day right of rescission period exists and the Complainant

properly notified the Respondent within the 15-day period. As such, the Complainant's attorney demands a rescission of the contract and refund of all amounts paid to the Respondent.

The Respondent provided an extensive response and stated the Complainant was provided with all proper disclosures and there were no illicit or predatory sales tactics used by the Respondent to induce the Complainant to purchase a time share. The Complainant agreed to purchase the timeshare on October 6, 2020 in Tennessee and a closing was attended by the Complainant with a Quality Assurance Officer who is trained to ensure customers are comfortable with their purchase and understand all the financial obligations with the contract. The contract was executed by DocuSign electronic signing system and the copy of the contract was sent to the Complainant's e-mail address provided by the Complainant. A USB was also provided to the Complainant. Also, the Complainant was given the Quality Assurance Officer Hotline phone number if there was any issue with the purchase after the purchase and the Complainant never called the hotline and there is no record of any call from the Complainant. The purchasers are given the rescission rights and provide them with an opportunity to review and consider all the provisions of the contract. The Respondent's records indicate the Complainant toured the property before the closing and is not eligible for the fifteen (15) day rescission period. The ten-day rescission period and the notice was provided in writing after the 10-day rescission period had expired. The DocuSign history also indicates the Complainant reviewed the contract on October 6, 2020 at 9:01 p.m. The Complainant had all proper copies of all documents by e-mail/online and on the :USB drive The Respondent cannot find any information that would substantiate the allegations made by the Complainant's attorney and does not find any information that would warrant the cancellation of the contract since the Complainant failed to rescind the contract within the rescission period. The Respondent denies the request to cancel the contract.

There is insufficient evidence to indicate the Respondent violated the Tennessee Timeshare Act of 1981. Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract if they choose. Therefore, Counsel recommends this matter be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

47. 2020088121
Opened: 12/14/2020
First Licensed: 6/23/2011
Expires: 1/25/2018 (Voluntary Surrendered)
Type of License: Vacation Lodging Service
History: 2020 Consent Order, 2020 Consent Order

Complainant is a Tennessee resident and the Respondent is short-term rental company.

The Complainant made a reservation in January 2020 for a cabin in Tennessee for the period of November 13-November 15, 2020 and paid with a credit card. The Complainant called to confirm on March 27, 2020 and again called on November 9, 2020 to get the code for entry and was told it had been rented to someone else because they would stay an extra day. The Complainant called the corporate office and was told the property was not rentable and that is why it was cancelled. The Complainant called the credit card company and the money had not been refunded. The reservation was for 23 family members and many of them were coming from out of state. The Complainant alleges the Respondent defrauded the Complainant.

The Respondent provided a response and stated the Complainant made the reservation through Expedia and the Respondent is the channel manager for Expedia. The Respondent provides short term rentals. It receives and disburses the funds related to reservations. The Respondent does not receive guest funds from the Online Travel Agency or Channel Managers until after the completion of the guest stay and so the Respondent never received any of the funds related to the Complainant's reservation. On March 25, 2020, the channel manager was not paying the Respondent amounts owed to it, the Respondent cancelled all reservations through the channel manager. The Respondent then contacted each renter by telephone and notified them of the cancellation and offered an opportunity to rebook the stay. The Complainant was notified March 27, 2020 and did not rebook his stay. The hold that was put on the room was removed after the Complainant did not rebook. The reservations were rebooked on June 22. The Respondent heard nothing until November 9, 2020. The Respondent does not know if the channel manager refunded the Complainant, but the Respondent never received any funds from the channel manager.

The Respondent is not subject to the jurisdiction of the Tennessee Real Estate Commission. The rental is a short-term rental.

Recommendation: Counsel recommends deferring this matter to the next Commission meeting to research the short-term rental licensing question.

Commission Decision: The Commission accepted counsel's recommendation.

48. 2020095121

Opened: 1/19/2021

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration (Time Share Exempt)

History: None

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

The Complainant alleges on August 31, 2020, the Complainant contacted the Orange County, Florida Board of County Commissioners to express their dissatisfaction with the ownership with the Respondent and the complaint was forwarded to the Florida Department of Business & Professional Regulations. The Complainants received a letter on October 27, 2020, the matter was referred to the TREC. The Complainant has attempted to get out of the timeshare contract and have been unsuccessful. The Florida Department of Business & Professional Regulations stated they did not have jurisdiction over the purchase and informed the Complainant that TREC may be able to help them seek relief. The Complainant has attempted to use the online complaint form and continues to receive an error message. The Complainant requests a full cancellation of contracts by the Respondent. The Complainant alleges the contract is questionable and there were numerous pages that were not signed by the Complainant. The Complainant was not aware of the ten-day cancellation period and would have immediately cancelled if they were aware of the cancellation period. The Complainant alleges the Respondent intentionally misinformed them each time they made a purchase. The Complainant made five or six purchases and claims the presentations were very uncomfortable. The Complainant alleges the Respondent stated the Complainant could generate enough

income to pay off all the fees and by using the credit card associated with the timeshare and the associated point accumulation and would help free us from maintenance expenses. The Respondent also stated it would be possible to refinance with a preferred bank and this would be a viable option for getting out of the high interest rates on these loans.

The Respondent provided a response and stated the Complainants have been owners since 2005 with additional purchases in 2006, 2009, 2010, 2014, 2015, 2016, 2017 and 2018. The content and format of their concerns received by the Respondent led them to believe the Complainants have received some information about cancelling the contract from a third-party and may be experiencing some financial hardship. The Respondent has reviewed the allegations to determine whether they can be substantiated. The Respondent believes the hardship is unrelated to a sales representations or service issue provided by the Respondent. The Complainant received an annual allocation of 1,355,000 perpetual points. At the time of the sale, the purchasers had the option to apply for a credit card. The Complainant received a sale charge receipt in the amount of \$19,967.51. The credit card terms and conditions are given at the time of the application and would also receive subsequent communications. All reservations are on a first-come, first serve scenario and all of this is fully disclosed to all timeshare owners. The usage of the memberships is optional and subject to rules and regulations and all such information is provided and explained in detail. Vacation usage depends on the number of points allocated to a member's ownership interest and how the owner chooses to use the points. The contract documents were signed by the Complainants and all full disclosures were provided to the agreement between the Complainant and the Respondent. The Buyer's Acknowledgment, Ownership Review and Quality Assurance Review, which are all signed and received by the Complainant at the time of purchase. The Respondent did not find any information substantiating the allegations in the Complaint and the Respondent denies the cancellation request.

There is insufficient evidence indicating the Respondent violated the Tennessee Timeshare Act of 1981. Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of some of the timeshare contracts. Therefore, Counsel recommends this matter be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

- 49. 2021001541**
Opened: 1/25/2021
- First Licensed: 3/10/1994**
- Expires: 12/10/2022**
- Type of License: Real Estate Firm**
- History: 2017 Consent Order**

Complainant is a South Carolina resident and a timeshare purchaser. The Respondent is a Florida Corporation and a licensed Tennessee Real Estate Firm.

The Complainant alleges the Respondent engages in deceptive and unfair sales tactics and has denied the rightful release from the contract. The Complainant's entered into a contract to purchase six timeshares beginning in May 2016. The Complainants allege the Respondent's representatives made false statements and made misrepresentations. The Complainant provided an extensive timeline and synopsis of each of the transactions and allege the Respondent engaged in misrepresentations. The Complainant entered a contract to purchase a timeshare from the Respondent in June 2017 for \$12,350. The Complainant wants cancellation of all contracts and fair refund.

The Respondent provided a response and stated the Complainant filed a complaint against the Respondent with the South Carolina Department of Consumer Affairs, the Arizona Attorney General's Office, Better Business Bureau serving Southeast Florida and the Caribbean. The Respondent provided responses to all the complaints previously filed and the responses. Also, the Respondent provided copies of all documents for the Complainants at the time of each of the purchases made by the Complainant. The Respondent stated that the products were not misrepresented to the Complainants and during the time of purchase the products were adequately described to the Complainants and they were given an opportunity to cancel each purchase. The Complainant was also under no obligation to make any of the six purchases from the Respondent. The Respondent will not cancel the contracts and the Complainant is not entitled to any relief. Also, the Complainant's last two recent purchases in July 4, 2019 and November 10, 2019, were cancelled by the Respondent due to non-payment. The other four purchases

remain active. The Respondent is willing to aid with utilizing the benefits of ownership and can contact the Customer Care Team.

There is insufficient evidence to indicate the Respondent violated the Tennessee Timeshare Act of 1981. Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract. Therefore, Counsel recommends this matter be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

50. 2021000371

Opened: 2/1/2021

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration – Time Share Exempt

History: None

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

The Complainant entered a contract to purchase a timeshare on May 19, 2019. The Complainant is dissatisfied with the Respondent's questionable sales tactics. The Complainant alleges the Respondent regularly lured the Complainant into sales presentations under the notion of receiving a gift or being able to solve any problem that had arisen with the timeshare. The Complainant alleges the Respondent's sales personnel engage in manipulative and deceitful tactics. The Complainant was discouraged from reading the contract before signing and was forced to read it after it was signed. The contract directly contradicted many of the representations, we were made during the presentation and the signing. The Complainant alleges the Respondent lied on numerous occasions. The Complainant believed the last contract had been canceled and were told it had been taken care of and voided. Later, the Respondent's Quality Control Officer would not return the Complainant's telephone calls. The customer care specialist finally sent an Owner Care Resolution Agreement on October 9, 2019. This was three months

after the rescission letter. The Complainant had even disputed the charge with the bank. Each time the Complainant attended a sales presentation the Respondent's representatives would pressure the Complainant to purchase more points and would try to say the Complainant could rent it out or take more vacations. The Complainant had trouble finding availability over the years when booking vacations. The Complainant did not realize that there were two different credit cards used for the down payment. One credit card was for \$22,484 and the other credit card was for \$10,216. One of these were a credit card previously held by the Complainant and the other was a new credit card that the Complainant had no knowledge about before making the charge. The Complainant had to withdraw amounts from their IRA to payoff these credit cards. The Complainant stated the Respondent acted dishonestly and was engaged in predatory practices. The Complainant has lost their financial security because of the actions of the Respondent. The Respondent has even transferred the Complainant's account to a collection agency. The Complainant has attempted to resolve this issue with the Respondent and were unsuccessful. The Complainant alleges the Respondent has exploited them and needs to be held accountable. The Complainant are seeking the assistance of TREC to resolve this matter and investigate the Respondent.

The Respondent provided a response and stated prior owners are invited to visit resorts and may be invited to sales presentations and sometimes receive gifts as an incentive to attend. This is an opportunity for current owners to review their options or either a new or additional purchase. A tour guest is only obligated to attend the sales presentation for the designated period based on the terms and conditions of the agreement. The length of the presentation can vary depending on the level of interest of the customer or owner. A guest can leave if desired and at their own discretion. The purchase options and terms can vary from sales office to office. The purchase price and maintenance fee charges can also vary based on the product and the assigned ownership allocation. The product is subject to availability and prices are subject to change. The Complainants have been owners since 2016 with additional purchases in 2018 and 2019. The Respondent believes the Complainant may have come across information about cancellation of contracts with the Respondent and is attempting to cancel the contracts because of financial hardship. On May 15, 2019, the Complainant's most recent purchase was made in Tennessee and other contracts were traded for this contract and the Complainant was to receive 700,000 perpetual points. The Complainant elected to apply for the credit card and were provided with all necessary disclosures and signed the application for a credit card. The sales charge receipts were also provided to the Complainant. On July 9, 2019, the Complainant again agreed to trade some of their contracts as equity to the purchase of a new contract with 805,000 perpetual points. The sales receipt was signed by the Complainant voluntarily. All necessary disclosures were provided to the Complainants.

The Complainants are in breach of their contract. Also, based on the internal investigation and review of this matter, the Respondent does not find any information substantiating the Complainant's allegations in the complaint and denies the cancellation of the contract.

There is insufficient evidence to indicate the Respondent has violated the Tennessee Timeshare Act of 1981. Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract. Therefore, Counsel recommends this matter be closed.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

51. 2021006451

Opened: 2/8/2021

First Licensed: 4/9/2018

Expires: 4/8/2020

Type of License: Vacation Lodging Service Firm (Expired)

History: None

Complainant is an Illinois resident and the Respondent is a Tennessee corporation.

The Complainant made a reservation for a cabin through the Respondent. The original dates were from March 21 to March 29, 2020 and due to the COVID-10 pandemic the Complainant cancelled the rental for safety concerns. The Respondent provided a future credit of \$3,578.96 for the cancellation and the Complainant was told that the refunds were not possible. The Complainant contacted the Respondent to rebook for this Spring Break. The Respondent quoted the rental at \$6,400 for cabin rental. The Complainant was told the rates had increased and were responsible for the difference in rates. The rental agency manager would not provide the Complainant with the last name and the Complainant could not contact anyone. The Complainant suspects the Respondent increased the rates and attempted to recoup lost revenue from COVID-19 related cancellations. The Complainant alleges this is fraudulent, price gouging activity and poor business practice.

The Respondent has provided a response and states the Complainant has continuously been making threatening phone calls and libelous Internet reviews to harm the Respondent and the allegations are without merit. The Complainant made a reservation for March 21, 2020 to March 28, 2020 for a seven (7) night stay. Two of those days were weekend rates of \$505 per night and the other nights were low season rates of \$430 per night. The Complainant was given a full monetary credit for every dollar spent for a two-year period. The Complainant called to make a reservation for a nine (9) night stay and wanted the nine nights at the same price as the seven (7) night prices from last year. The reservation dates were March 26, 2021 to April 4, 2021. These rates are holiday rate period and not weekend or low season rate periods. The same dates were not booked, and the same number of nights were not booked. The two Easter dates last year were April 12, 2020 and this year it is April 4, 2021. The low season rates are the same rates this year as they were last year, and the weekend rate is the same rate. The repeated threats by the Complainant of fraudulent price gouging because of COVID-19 are false and this is a blatant and repeated attempt by the Complainant to harm the Respondent business and this matter is being turned over their attorney for further legal action against the Complainant.

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

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

Matters to be Represented

Shilina Brown

52. 2020089001

Opened: 11/23/2020

First Licensed: 1/1/2006

Expires: 8/27/2021

Type of License: Principal Broker

History: 2017 Consent Order; 2019 Consent Order

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

The Complainant listed the home with the Respondent on June 16, 2020 with a six-month contract. There were two different buyers and both buyers backed out of the deal and the Respondent failed to act. The Respondent guaranteed the home would be sold. The first buyers offer date was July 5, 2020 and was accepted. The house inspection was on July 7, 2020. The results of the inspection were provided on July 10, 2020. The roof had two layers of shingles that needed to be removed and new layer was put on because it had a new tin roof. The repairs needed were completed. After receiving the results of the inspection, the Buyers wanted to take

\$10,000 off the agreed sale price. The Complainant told the Affiliate Broker the Buyers needed to come out and reexamine the house and compare it to the results of the inspection. However, the affiliate broker did not relay this information to the Buyers. The second offer was through an FHA loan and the closing date was set for October 21, 2020. Two weeks before the closing the Complainant's agent advised that the lender required that the mobile home to have a 6X6 concrete footer with 2X6 walls around and connected to the outskirts of the home. Most contractors were booked and were unable to do the construction work within the two-week period prior to the closing date. The Complainant's agent stated this was the last thing that needed to be done. The Complainant's family worked one week in the rain to get this done before the closing date. The title agent did not know until the day before the closing that the property was a mobile home. The title agent told the Complainant that their real estate agent failed to tell them it was a mobile home. The closing date was postponed until October 28, 2020. A day before the second scheduled closing date, the Respondent notified the Buyers that it would take two more months until the closing took place. The six-month contract expired in a little over a month. As a result, the Buyers backed out of the contract and the Respondent failed to honor the guarantee to get your home sold. The listing agreement expired with the Respondent on December 14, 2020. The Complainant still has not sold the home. On November 2, 2020, the Respondent cancelled the contract without the Complainant signing a mutual release. The Complainant's home was taken off the market on November 3, 2020.

The Respondent provided a response and stated the Respondent listed the Complainant's home with the "your home sold" guarantee on June 16, 2020. The first potential buyer had an inspection completed and sent over a repair proposal of eight items that needed to be repaired. The Seller offered a \$2,000 repair credit. The Buyers wanted to cancel. The Respondent tried to negotiate the repair proposal with the Buyers, but the Buyer would only accept a \$10,000 repair credit. The Seller agreed to a \$4,500 repair credit plus a home warranty, however, the Buyer refused and cancelled the contract. The Complainant claimed the home inspector was "nit picking" items but the Respondent was unable to have the home inspector return to the home to reinspect the property. The roof issue had nothing to do with the amount of weight the two sets of shingles plus the tin would have on the manufactured home. The Buyers was an older single lady who got scared following the inspection and there was nothing the Respondent could do to salvage the transaction. The Respondent stated there was no issue with the repairs. In the second transaction, the appraisal was returned and there was no issue, however, the lender required a structural engineering letter to move forward and the Respondent knew that the Complainant did not have the money for someone to come out to perform a structural inspection. The Respondent arranged for an engineer to come and inspect the foundation and provide a letter. The Respondent paid the \$425 for the structural engineer. The structural engineer inspected the home and stated it needed to have a 2X6 half wall built underneath it that was sitting on a poured concrete footer. The Complainant was directly told this by the structural engineer. The Respondent tried to find a contractor to have this done but was unable to find a contractor. Most contractors could do the work in three to four weeks. The Complainants needed to close as soon as possible to pay off their debts and move to Alabama, so the Respondent let them borrow \$1,500 to buy the materials and do the work themselves. The Respondent made sure to speak to the structural engineer, so it was clear what needed to be done. The Complainants assured the Respondent he would be paid back at the closing. The structural engineer came back to the property to inspect the work and approved it. The Respondent paid another \$225 to get the

clearance letter from the structural engineer. The Respondent believes the Buyer's agent failed to tell the Buyer's title company the property was a manufactured home and the Complainant assumed it was the Respondent that failed to inform the title company the home was a manufactured home. The Respondent does not speak to the Buyer's title company unless necessary and it was not the Respondent's responsibility to tell the Buyer's title company the details about the property. On October 19, 2020, the title company informed the Respondent and the Buyer's agent that the mobile home had not been "detitled." The title company would also have to send a VIR form to Nashville to make sure there were no liens against the manufactured home. The title company indicated it would take about a week to get the VIR back and a closing extension was signed. The title company informed the Respondent there were two liens on the mobile home. The title company had to find out lienholders and the amounts of the lien. The title company indicated it would take at least a month. The Respondent advised the Complainant. The Respondent tried to keep the deal intact, however, the Buyers were not willing to wait for the liens to be resolved or wait for the "detitling" process. The Respondent found there were liens from three owners back. The companies who had the liens had been sold and then the company who purchased the first company was sold and then that company was sold. The two previous purchasers of the mobile home had bought it for cash with no manufactured home title and did not have a title search performed or purchase title insurance. After the contract was cancelled, the Complainant started a Facebook page and made disparaging remarks about the Respondent. The Respondent's Principal Broker had to get involved and the Principal Broker recommended the Respondent enter a mutual release with the Complainant.

Recommendation: Close.

Commission Decision: The Commission voted to defer this matter until the next meeting and requested that counsel obtain a copy of the advertisement at issue in the complaint.

New Information: The advertisement was obtained and states "Your Home Sold Guaranteed or _____ will buy it for cash." However, the parties must enter into an agreement about price and possession date. The Respondent did not enter into an agreement for the Guaranteed Sale Program and therefore, the Respondent was not obligated to purchase the Complainant's property because the property was not saleable to enter the Guaranteed Sale Program. The Respondent provides a guarantee to purchase the property after the Seller and the Respondent enter into the guarantee agreement to purchase the home. The preliminary assistance was provided by the Respondent to get the property ready to sell. The Respondent attempted to assist the Complainant to get the property sold. They did all they could to get the property sold for them and even loaned the Complainants the money for the foundation repairs to the mobile home and the Complainant did not pay back these amounts. The property had multiple liens and the Complainants could not produce a clear title on the property. The Complainant cannot sell the property unless the Seller can provide clear title and the Complainant could not provide clear title.

New Recommendation: Close.

New Commission Decision: The Commission voted to issue a Consent Order with a

\$1000.00 civil penalty for the advertising violation.

53. 2020060611

Opened: 1/27/2020

Type of License: Unlicensed

History: None

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

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

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

Decision: The Commission accepted counsel's recommendation.

New Information: We are unable to locate the Respondent. An investigation was completed and the Investigator was unable to find any individual or the Respondent firm or any business related to the Respondent firm and the address for the Respondent is an office with multiple tenants and there is no record of the Respondent firm in the directory.

New Recommendation: Close and Flag and refer to District Attorney's Office.

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

54. 2020042881

Opened: 8/3/2020

Unlicensed

History: None

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

The Complainant alleges the Respondent contacted the Complainant to sell a timeshare in Mexico and stated a purchase offer would be received for \$26,000. The Complainant made a wire transfer for 10% of the purchase price - \$2,600. This would be refunded at the time of closing. In April 2020, the Complainant made another wire transfer for \$2,250 through the Respondent. The Complainant was unable to sell the timeshare and never received the return the of \$4,850 sent to the Respondent. The Complainant alleges the Respondent is engaged in fraudulent activity.

-

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

Commission Decision: The Commission accepted counsel's recommendation.

New Information: We are unable to locate the Respondent. An investigation was completed and the Investigator was unable to find any individual or the Respondent firm or any business related to the Respondent firm and the address for the Respondent is an office with multiple tenants and there is no record of the Respondent firm in the directory.

New Recommendation: Close and Flag and refer to District Attorney's Office.

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

55. 2020014611

Opened: 2/25/2020

Type of License: Unlicensed

History: None

Complaint filed against a firm located in Tennessee through a broker that is attempting to purchase timeshares through an escrow company based in Maryland. The Complainant paid a "transfer fee" of 10% of the offer to buy the timeshare and Respondent stated the amount would be paid back to the Complainant upon the sale of the timeshare. The Complainant was to receive \$26,000 plus the "transfer fee" of \$2,600. The Complainant alleges this was a scam involving a third-party escrow company and when it was time to

close the Respondent wanted another \$2,250 for closing costs from the Complainant. The Complainant wired the initial “transfer fee” to a bank in Mexico and unable to get the money returned. The Respondent did not provide a response. Respondent is holding itself out as a real estate firm with licensed realtors on the website.

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

Decision: The Commission accepted counsel’s recommendation.

New Information: We are unable to locate the Respondent. An investigation was completed and the Investigator was unable to find any individual or the Respondent firm or any business related to the Respondent firm and the address for the Respondent is an office with multiple tenants and there is no record of the Respondent firm in the directory.

New Recommendation: Close and Flag and refer to District Attorney’s Office.

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

56. 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.

New Information: We are unable to locate the Respondent. An investigation was completed and the Investigator was unable to find any individual or the Respondent firm or any business related to the Respondent firm and the address for the Respondent is an office with multiple tenants and there is no record of the Respondent firm in the directory.

New Recommendation: Close and Flag and refer to District Attorney's Office.

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

57. 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 walkthrough 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.

New Information: The Respondent has retained an attorney to provide further information in this matter. The Respondent never received this complaint from the TREC and did not know there was a complaint concerning this matter. The Respondent was aware of the complaint filed with the Tennessee Attorney General's Office and provided a response to them. As such, the Respondent would have also provided a response to the Commission if it were aware of the pending complaint. The Respondent would like to resolve this matter. On October 8, 2020, the Respondent paid the tenant the entire amount of the demand of \$2,138.00. The Complainant had signed a general release and copy was provided to the same complaint that was filed with the Office of the Attorney General. The Respondent has requested reconsideration of this matter by the Commission.

New Recommendation: Close.

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

New Matters

Pamela Vawter:

58. 2020091251

Opened: 12/28/2020

First Licensed: 3/15/2001

Expires: 6/30/2022

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee citizen. Respondent is a licensed affiliate broker.

Complainant purchased a home in March of 2020. Complainant alleges that Respondent (listing agent) indicated during the initial phone inquiry that the house was in excellent condition. Complainant claims this was untrue, and that she has experienced a multitude of undisclosed problems with the home since moving in. Complainant states that when she physically inspected

the house, low lighting and gray shrink film on windows and doors concealed problems with moisture, air leakage, and insect invasion.

Complainant claims that she asked Respondent about codes and was given inaccurate information. Complainant believes the seller should have obtained permits for additions she made to the home. She states that Complainant provided names of home and building inspectors. When Complainant used the inspectors, they ended providing inaccurate information. Complainant also contends the home was listed as a three bedroom, but Complainant believes the home should have been listed as a two-bedroom because the third room would not qualify as a bedroom. Complainant also states that the listing was misleading because it stated the house is a 1.5-bedroom home, but the appraisal report stated it has two floors. Complainant also states that experts later evaluated the fireplace and stated it was the worst they had ever seen. Complainant states there were many issues she discovered with the property after moving in.

On November 19, 2020, Complainant filed a lawsuit against the seller alleging misrepresentation, breach of contract, and other causes of action. The Respondent, home inspector, and Respondent's firm are also named as defendants. The civil suit is pending in circuit court.

Respondent has submitted a response via her attorney stating that she denies having knowledge of any adverse facts or alleged adverse conditions of the property. Respondent listed the home based on the information she was provided. She states the property was the subject of a home inspection, and that all the repairs and replacements requested by Complainant pursuant to the Repair/Replacement Amendment and Purchase and Sale Agreement were completed by the seller prior to closing.

Based on the information provided, there is insufficient evidence that Respondent violated the rules and statutes of the Tennessee Real Estate Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

59. 2020092511

Opened: 1/14/2021

First Licensed: 1/7/1980

Expires: 8/15/2022

Type of License: Principal Broker

History: None

The Complainant is a Tennessee resident and the Respondent is a licensed principal broker.

The Complainant alleges the Respondent's affiliate broker was unable to sell Complainant's home after listing it with the Respondent's firm for eight months. The Complainant contends the affiliate broker was aware of a situation in which the Complainant had a balloon payment on the mortgage due in November 2021, which created urgency to sell the home. Another real estate agent sent a client to look at the house and the Complainant advised all wires on the ground would be removed by the time the client took possession of the property. The parties entered a contract based on the representation of the Complainant to have all the loose wiring removed. After 17 days, the buyer decided to cancel the contract because the electrical wires were still laying on the ground, and this had not been swiftly remediated as stated by the Complainant and following the terms of the inspection. By this point, the Complainant demanded the \$1,000 Earnest Money Deposit (EMD) and the Respondent refused to turn over the EMD to the Complainant.

The complaint was initially filed against the affiliate broker. The principal broker (current Respondent) submitted a response and stated there was no reference in the contract of the electrical being excluded and the Complainant had an obligation to remove the loose writing. The Complainant also refused to sign the release form after the contract was cancelled because of the unsafe electrical wiring. The EMD monies could not be released until there was a signed release from the Complainant. Additionally, the Respondent's mother was admitted to the ICU in critical condition on June 24, 2020, and she had to stay in the ICU until 8:00 p.m. each night because of the Healthcare Power of Attorney held by Respondent and the COVID-19 pandemic. The Respondent listed the property according to the terms of the listing.

Respondent states that buyer's real estate company held the earnest money. The buyer's agent stated that buyer's real estate company would return the earnest money. Complainant sold the property to another person and paid no one a commission at Respondent's firm.

This complaint was initially presented to the Commission with a recommendation to close on the basis that the affiliate broker did not violate the laws or rules of the Tennessee Real Estate Commission. The Commission accepted counsel's recommendation, but requested the complaint be opened against the principal broker.

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

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

60. 2020098321

Opened: 1/14/2021

First Licensed: 5/29/1997

Expires: 4/21/2022

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. The Respondent is a licensed affiliate broker.

Complainant alleges he encountered Respondent walking on his property on December 30, 2020. Complainant believes that Respondent was likely showing the property to a prospective customer. Complainant states he is a part owner of the property and did not give Respondent permission to walk on his property. Complainant contends has no contract with Respondent or his firm. He believes that Respondent acted unprofessionally by not informing all the owners that he was showing the property.

Respondent provided a response and states that he has become caught in the middle of a family disagreement among four sibling heirs to the property at issue. He states he was introduced to the family in November of 2017 and spent considerable time working on a proposal for the family. At that time, his conversations were with two of the four heirs who lived out of state and wished to sell. They advised Respondent there was not a consensus yet among the siblings.

Respondent stayed in touch with the family for the next three years. There was increased interest in selling in the past few months. Respondent told one of the siblings that he wanted to go back and look at the land again before making another proposal to market it. He encountered Complainant as he was walking the land. Respondent gave Complainant his business card and asked permission to spend 30-45 more minutes on the land, and Complainant agreed to that. The person with Respondent was not a prospective buyer, but rather a licensed forestry consultant. After leaving the property, Respondent advised the sibling he was working with that he had run into her brother while on the property.

Respondent states he would be happy to meet with the Complainant and will let him know when he visits the land. Respondent had permission of other siblings who were part owners to be on the property, and the Complainant gave permission for Respondent to remain on the property. Therefore, Counsel does not find that Respondent violated any of the Commission's rules/statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

61. 2021000321

Opened: 1/14/2021

First Licensed: 7/31/1997

Expires: 5/29/2022

Type of License: Affiliate Broker

History: 2018 Letter of Warning

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

Complainant contends that he received an unsolicited phone call from Respondent on January 4, 2021. He alleges Respondent stated, "I understand you are the executor for the estate of [recently deceased family member]. I work with people with real estate of estates." Complainant states that he cut the Respondent off then called Respondent an expletive and hung up.

Complainant states the estate for which he is executor does not contain real property. He claims the number that was called has been listed on the on the National Do Not Call Registry. He believes that Complainant's approach amounts to an invasion of privacy of families who have lost loved ones. He researched Respondent on social media and saw other comments about Respondent contacting people in a similar circumstance. Complainant believes these cold calls prey on vulnerable people.

Respondent submitted an answer stating that Complainant's description of the phone conversation was accurate. Respondent states he called to offer real estate services, and Complainant cursed at him and hung up. Respondent states he does not harass anyone. Anytime he is prospecting to a source of business and comes across someone who is upset with the call, Respondent apologizes for the interruption and removes them from the call list.

Based on the information provided, Counsel does not find that Respondent violated the Commission's rules/statutes. If Complainant believes the call was prohibited by registration with the National Do Not Call Registry, he can report it to the National Do Not Call Registry website or toll free number, and the Federal Trade Commission would then determine if any violation occurred.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

62. 2020095981

Opened: 1/14/2021

First Licensed: 4/9/2013

Expires: 4/8/2021

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate firm.

Complainant alleges that she executed a one-year lease with an “unlicensed rental agency.” She claims that she made numerous requests for repairs in early June of 2002 that were not completed when she moved out. She claims her rent was paid each month.

Complainant received a letter in November of 2020 advising that the lease would not be renewed. Complainant inquired with the Respondent firm on December 2, 2020, about purchasing the house but was told that they would be putting the house on the market. The Respondent firm helped them find another rental agency with an available home.

Complainant contends she began receiving daily calls on December 3, 2020, to check if they were moving. Complainant felt harassed by the calls. She explained that Christmas was a few weeks away, and she was suffering from multiple physical and mental health issues, and that her husband's hours had been cut due to the COVID-19 pandemic. The calls became so stressful that the Complainant requested a change in her medication. On December 8, 2020, Complainant's husband asked if the firm would stop calling daily and advised they would be out within a week, but the calls continued.

Complainant contends they turned the keys on December 11, 2020, but another tenant moved in on December 12, 2020. Complainant is upset that the lease was terminated by

an alleged unlicensed real estate firm on what Complainant believes was false pretenses because the house was re-rented and not sold. Complainant also claims that she was promised she would receive the security deposit back, but it was not refunded, and she continues to receive a ‘runaround.’

The principal broker for the Respondent firm submitted a response stating that she is a licensed real estate agent and the owner of the home that Complainant and her husband were leasing. The broker and Respondent firm are licensed and insured with E&O insurance for property management. A review of the lease agreement reveals that the property was leased by an LLC that is the owner of the property. Complainant mistakenly refers to the LLC as an alleged “unlicensed rental agency,” but the LLC is the actual owner of the property.

The principal broker states that Complainant was upset because her security deposit was not returned due to damages found in the move out inspection. She states that Complainant was never told the property would be placed on the market. She provides a copy of the letter notifying Complainant in November of 2020 that the lease would not be renewed. Rent was due on the 1st of each month. Beginning in June of 2020, rent payments were made on June 12, July 8, August 13, September 8, October 23, November 13. The principal broker decided not to renew the lease. No payment was received for December or the remainder of the lease, which ran through January 10, 2021. The principal broker states that Complainant was in breach of the lease by moving out when she did.

Based on the information provided, there is no evidence that Respondent violated any of the rules or statutes of the Tennessee Real Estate Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel’s recommendation.

63. 2020090871

Opened: 1/19/2021

First Licensed: 10/12/2015

Expires: 10/11/2021

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee citizen. Respondent is a licensed affiliate broker. Complainant is the purchaser of property owned by Respondent.

Complainant bought a home from Respondent in March of 2020. Complainant contends she experienced a multitude of undisclosed problems with the home since moving in. Complainant states that when she inspected the house, there was low lighting and gray shrink film on windows and doors that concealed issues with moisture, air leakage, and insect invasion.

Complainant believes that Respondent failed to obtain county permits for additions she made to the home. She alleges the home was listed as a three bedroom but believes should have been listed as a two-bedroom because the third room did not contain a closet and there was no privacy door. Complainant alleges the listing was misleading because it stated the house is a 1.5-bedroom home, but the appraisal report later stated it had 2 bedrooms. Complainant also states that experts evaluated fireplace after she moved in and stated it was the worst they had ever seen. Complainant details numerous issues that she discovered after moving in which Complainant contends Respondent failed to disclose.

On November 19, 2020, Complainant filed a lawsuit against Respondent for alleged misrepresentation, breach of contract, and other causes of action. The listing agent, home inspector, and real estate firm are also named as defendants. The civil suit is pending in circuit court.

Respondent has submitted a response via her attorney stating that she denies having knowledge of adverse facts or alleged adverse conditions of the property which she failed to properly disclose before selling her property. The property was the subject of a home inspection and all repairs and replacements requested by Complainant pursuant to the Repair/Replacement Amendment and Purchase and Sale Agreement were completed by Respondent prior to closing.

Tenn. Code Ann. § 62-13-104(a)(1)(A) provides that the Tennessee Real Estate Broker Act does not apply to an owner of real estate with respect to property owned or leased by that person. Because the transaction at issue is exempt, Counsel recommends that this matter be closed. Complainant has a pending civil suit in circuit court where she may seek redress for the allegations in her complaint.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

64. 2021000301

Opened: 1/19/2021

Unlicensed

History: None

Complainant and Respondent are both Tennessee residents. Complainant is the owner of vacation rental property. Respondent handled cleaning, maintenance, and bookings for the property.

Complainant had a maintenance contract with the Respondent for cleaning and handling customer calls and guest needs for vacation rental property that Complainant owns. Complainant and Respondent have been in an ongoing dispute over the maintenance agreement. Complainant states Respondent indicated early in 2020 that that she could also take on renting the property for 10% commission. Respondent then began acting as an agent to rent the property. Respondent set up the property on several sites using herself as the contact. Respondent corresponded with guests on all questions. Complainant contends that Respondent set up the initial pricing and specials, while Complainant would determine the lowest price and occasionally consult on pricing goals. Respondent kept the property rented took care of bookings from May through December of 2020. Complainant states that Respondent scheduled all the guests and answered all guest questions in addition to cleaning and maintenance. Respondent billed Complainant 10% commission on all bookings. Complainant states she discovered that Respondent did not have any license and is concerned Respondent has been engaging in unlicensed activity.

Respondent submitted a response stating that she began to “man” the online platforms to get Complainant bookings for her cabin in the spring of 2019. Respondent states she received a commission for each booking she got for Complainant. Respondent contends that she does not need a license for this type of property management activity because she does not collect funds directly from any renter or guest of the property. Respondent contends that Complainant set the price based on Respondent’s research of local rental competition, and Complainant could set it higher if desired. Respondent contends that she handled the cleaning and guest calls, and that no money was collected by her. She claims that she operates a property management service in which she simply “man[s] a platform” for owners who do not want to handle their own bookings.

Respondent is not a licensed broker, and it does not appear that Respondent holds firm license, or a vacation lodging service license as defined by Tenn. Code Ann. § 62-13-104(b)(1)(C). Therefore, based on the information provided by Complainant and Respondent, Counsel recommends authorizing a One Thousand Dollar (\$1,000.00) penalty for unlicensed activity.

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

Commission Decision: The Commission accepted counsel's recommendation.

65. 2020097571

Opened: 1/19/2021

First Licensed: 3/9/1987

Expires: 12/19/2019

Type of License: Affiliate Broker

History: March 2020 Close and Flagged complaint; May 2020 Closed and Flagged complaint

Complainant is an out-of-state resident. Respondent was an affiliate broker who managed Complainant's property. Complainant alleges that Respondent failed to remit rental income totaling over \$15,000.00. Complainant states Respondent began to send rental income late starting in 2017 and has since disappeared.

Respondent died on December 22, 2019. This was confirmed by a former associate who worked with the Respondent. There was no funeral or obituary. As of March of 2020, no estate had been offered for probate.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

66. 2020097101

Opened: 1/25/2021

First Licensed: 3/19/1999

Expires: 2/8/2023

Type of License: Principal Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate broker.

Complainant contends that she contacted Respondent (listing agent) on 12/6/20 a house she

wanted to view. Respondent told her that two offers had already been made. He had a conflict when she wished to see the house, but he told her he would see if his cousin could show it. Complainant alleges Respondent did not back in touch. Complainant alleges she tried to contact Respondent numerous times. Complainant obtained an agent who also called Respondent. On 12/7/2020. Respondent returned Complainant's call later that day and stated he had 25 missed calls and texts from her or about her wanting to see the house. Complainant alleges she told him another agent would be showing her the home on 12/8/20, and Respondent said "good luck" in a rude tone. On 12/8/20, Complainant made an offer on the house and was notified that evening that sellers accepted a higher offer.

On 12/16/20, Complainant's agent contacted Respondent again to set up the showing of another house on 12/18/20. Respondent let her know that there were three others looking at it on 12/17/20. Complainant states she viewed the house on 12/18/20 and had no knowledge of any offers. Complainant alleges her agent called Respondent's office and was told they did not think there was an offer on it. Complainant wanted to make an offer for the listing price with sellers paying closing costs. Complainant alleges that Respondent called her agent back before they completed the paperwork for the offer and advised there were two offers on the house, and the seller had accepted one. Complainant feels she should have been told sooner that there were other offers.

Complainant called to confront Respondent about it and states he was very rude and hung up, telling Complainant not to call him again. Complainant states she then called a neighbor of the first home, and the neighbor told her she talked to one of the sellers who said they were not aware of Complainant's offer. Complainant then called Respondent again to request a copy of the rejection notice. During the call, Respondent mentioned the name of the person who had instructed him to reject Complainant's offer and take the highest offer. Complainant states that the person Respondent mentioned was not the seller listed on contract. Complainant contends Respondent was rude and unprofessional.

Respondent submitted an answer detailing the events. Respondent states there were two offers on the first home on 12/4/20 and 12/5/20. The sellers asked Respondent on 12/5/20 to be given until Tuesday, 12/8/20 to give an answer, and Respondent then went out of town on a weekend duck hunting trip to a spot with poor cell service. Complainant called on 12/6/20 about viewing the house while Respondent was on the trip. Respondent tried to return the call, but it would not go through. When Respondent reached Complainant on 12/7/20 about the showing, he apologized for the delay. He let her know about the other showings and wished her luck. Complainant made an offer on 12/8/20 which was presented to the sellers. The sellers told Respondent to reject Complainant's offer as they had decided on a better offer. When Complainant's agent contacted Respondent about the second home on 12/18/20, he advised her that the sellers had already accepted an offer. Complainant's agent then submitted a backup offer.

Respondent states that Complainant called him later to ask what he had against her. He told her he had nothing against her and had never met her. Respondent stated that the person he mentioned to Complainant who instructed him to reject the offer on the first home was the husband of one of the sellers whom the sellers had designated as their contact person for the transaction. Respondent provided documentation of the listing agreements, contracts, and notes.

Respondent states that he is sorry Complainant feels the way she does, but he was working for the sellers and presenting offers as timely as he could.

Based on the information provided, Counsel does not find that Respondent has violated the Commission's rules or statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

67. 2021000351

Opened: 1/25/2021

First Licensed: 7/18/2017

Expires: 7/17/2021

Type of License: Affiliate Broker

History: None

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

Complainant alleges that he listed his home with Respondent on 11/10/20. He contends they received an offer from a potential purchaser on 11/10/20 and a second offer of which he was not aware. Complainant contends that another offer came in on 11/12/20, and Respondent said she was going to reject the offer because it was not good enough. Complainant contends that Respondent signed the e-signature without his knowledge. Complainant alleges that the agent who submitted the 11/12/20 offer had a personal conflict with Respondent, which bore on the offer. He alleges the Respondent called the agent an expletive.

Complainant alleges that Respondent brought her family to house showings on 10/29/20, and Complainant felt rushed because they were pacing outside. Complainant claims that, during a showing on 10/31/20, Respondent threw herself down on the kitchen counter asked his wife, "Is that enough cabinets for you now?"

Complainant had an open house on 11/22/20. He claims Respondent said they had a showing before the open house from 1:45 – 2:00 p.m., but she arrived at 1:55 p.m. to the open house and left at 3:40 p.m. Complainant contends there was no communication during the open house. Complainant states he terminated Respondent the next day. Complainant alleges that hat a new agent selling his out-of-state home who had made mistakes, which he mentioned to Respondent. Complainant contends Respondent told the new agent what Complainant said, and she should have kept it confidential. Complainant claims that he had to take out a loan to pay closing costs because of Respondent losing an offer on the home. He believes Respondent was unprofessional and unethical in not separating her feelings from business.

Respondent submitted an answer stating that Complainant contacted her on 10/28/20 and signed a buyer's representation agreement. Respondent's mother, uncle, and aunt were with Respondent on 10/30/20 when she showed a newly construction home to Complainant. Respondent states her

aunt and uncle like to get their steps in and walked around the block while Respondent showed the new construction. They did not walk around the house -which was a muddy lot – or have contact with the Complainant except to greet the Complainant after the showing was over. Respondent denies having any rude or unprofessional attitude. She states that she did not throw herself onto anything nor would she have been able to physically do so due to a medical condition with her leg.

Respondent states that she received two offers on 11/12/20. She never rejected or signed any offer for the Complainant. Respondent states she did not lose any offer on their home. She encouraged them to counter on an offer the Complainant wished to reject. According to the copy of the communications Respondent provided, Complainant insisted on rejecting the offer.

Respondent states that Complainant wanted to have an open house on 11/22/20 from 2pm to 4pm. Respondent set the open house. Complainant had approved a showing for their home at 1:45. Respondent was at the open house from 1:30 p.m. to 3:56 p.m. according to the timeline she provided from Google Maps. Respondent states Complainant was not at the house when Respondent arrived early to set up, nor when she left.

Respondent did speak with the new agent who was selling the Complainant's home in Connecticut. They talked about the status of the closing and move. The new agent stated that a prior agent in Connecticut had a difficult time with the Complainant. Respondent denies divulging any negative comments that Complainant had made about the agent.

Based on the information provided, it does not appear that Respondent violated any rules/statutes of the Tennessee Real Estate Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

68. 2021003381

Opened: 1/25/2021

First Licensed: 1/15/2004

Expires: 6/8/2022

Type of License: Affiliate Broker

History: None

Complainant claims to be a Tennessee resident but appears to have provided a false identity and address. Respondent is a licensed affiliate broker.

Complainant alleges that Respondent engaged in unethical behavior by aggressively trying to persuade Complainant to list her home with Respondent after Complainant advised she was working with another realtor. Complainant claims Respondent continued

to contact her after she advised her not to do so. Complainant claims she contacted Respondent's broker but did not receive a reply. Complainant alleges Respondent tried to offer her money to switch the listing. She claims that when she turned Respondent down, Respondent made disparaging remarks about Complainant's neighborhood, which Complainant found belittling. Complainant contends that Respondent is unprofessional.

Respondent provided an answer stating that the alleged incident date, email address, and client name do not match any records. Respondent has no calls, appointments, or connections with anyone with Complainant's name. The physical address listed in the complaint as Complainant's is not legitimate and is a shopping center. Respondent states she was not in the alleged area on the incident date cited in the complaint. She states her broker has no record of ever being contacted by anyone by Complainant's name. Respondent states she does not know the Complainant and has never had any contact with her.

Attempts to forward mail to Complainant at the address given in the complaint were returned as undeliverable. Counsel attempted to reach Complainant at the email address listed in the complaint to request copies of Complainant's alleged correspondence with Respondent and other documentation. The email came back as undeliverable.

This appears to have been a bogus complainant. There is no evidence that Respondent violated the rules and statutes of the Tennessee Real Estate Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

69. 2020096911

Opened: 1/25/2021

First Licensed: 8/4/2020

Expires: 8/3/2022

Type of License: Real Estate Firm

History: None

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

Complainant alleges that Respondent failed to exercise due diligence in representing her interests. Complainant made an inquiry with an agent about showing homes in February of 2020. The pandemic occurred, and Complainant renewed her search with the agent later in June of 2020. Complainant put in an offer on a home on July 2, 2020. The agent advised Complainant that she was no longer with the same firm as when Complainant had first contacted her. Complainant's offer was not accepted. Complainant accepted a counteroffer on another home on July 12, 2020, which she signed via Dotloop.

Complainant states that the agent and broker she was working with broke off again from their new firm and would be affiliated with the newly formed Respondent firm. Complainant alleges that she submitted a repair list to the agent that the seller would need to meet for FHA standards, and the agent told her it would not be a problem. On July 31, 2020, Complainant signed an amendment switching to a conventional loan and 60-day closing date with seller to pay \$500 in buyer's prepaids.

Complainant sent a list of repairs to the agent, for which the Complainant wanted estimates. Complainant claims she had to ask multiple times for contractors to be contacted. The agent gave Complainant the name of a potential contractor to use. Complainant alleges the contractor was defensive and gave bad information for the quote.

The appraisal came back much lower than the asking price and underwriting required an amendment to reduce the purchase price to proceed with the loan. At this point, Complainant decided not to go through with the purchase and cancelled the contract. Complainant contends that she signed an earnest money release on September 20, 2020 but did not receive the earnest money until December 14, 2020. Complainant contends she did not receive hard copies of the documents she signed and that there were delays at times in the agent responding to her.

The broker submitted a response on behalf of the Respondent firm, stating that this complaint is submitted to the wrong brokerage. The transaction and contract at issue happened when the broker and agent were affiliated with an earlier firm. It was the other firm which held the earnest money. Because the broker was familiar with transaction, he did proceed with providing a response to the complaint. He states that the Complainant continued to work with the brokerage for another four months (until December) after cancelling the contract. Complainant went back to looking at properties with the agent. Complainant did not tell anyone she wanted the earnest money returned at that time, and Respondent had understood that Complainant intended for the earnest money to be transferred to another contract. When Complainant a release of the earnest money on Thursday, December 10, 2020, the money was promptly returned in three days.

Respondent denies being unresponsive. Complainant's submitted timeline and diary of events indicates the agents involved were responsive and attentive to Complainant's needs. Complainant had access to her account with all documents. Respondent denies telling Complainant that her proposed repairs would not be a problem. Rather, the agent warned Complainant that it is difficult to get FHA standards and that it would be a "far stretch."

Based upon the information supplied by Complainant and Respondent, there is not sufficient evidence that Respondent violated any of the rules/statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

70. 2021000031

Opened: 1/25/2021

First Licensed: 9/1/2009

Expires: 8/31/2021

Type of License: Real Estate Firm

History: None

Complainant is a licensed principal broker. Respondent is a real estate and property management firm.

Complainant is involved in an ongoing dispute with an owner who entered into a property management agreement with Complainant's firm on March 1, 2020. Complainant states she went through a grueling process to find a tenant. Complainant states that the owner then refused to execute a lease and instead insisted that Complainant execute the lease in Complainant's firm (instead of a lease agreement between the owner and tenant) because the owner did not wish to divulge his address. Complainant states that the owner later decided he wanted one of his friends to take over the property management. Complainant alleges the owner tried to threaten and manipulate her into releasing him from the property management agreement, which Complainant declined to do until the one-year lease between the tenant and Complainant's firm expires on April 30, 2021.

Complainant states that Respondent is the owner's new management company. She states the Respondent was informed that Complainant's firm has a property management agreement with the owner and lease. Complainant alleges that Respondent receives payments and property management fees that should belong to her firm.

The broker submitted a response on behalf of Respondent stating that the property owner had signed a management agreement with the Respondent for two properties in June of 2018 with automatic one-year renewals until written cancellation. One of those is the property at issue. Respondent had understood from the owner that he was entertaining selling the home. On January 20, 2020, the owner told Respondent he found a tenant and asked them to disconnect the utilities. The owner did not disclose anyone else being involved. Respondent believed the owner located a tenant and was self-managing the rental. Respondent has not been involved collecting any rent on the property. No placement fee was charged to the owner for the tenant placement.

The Respondent did not receive any notice from Complainant about an agreement with the owner until September 25, 2020.

Based on the information provided by the parties, this matter appears to be a contractual dispute. It does not appear the Respondent has violated any rules/statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

71. 2021000701

Opened: 2/1/2021

First Licensed: 8/9/2002

Expires: 4/18/2022

Type of License: Principal Broker

History: None

Complainants are Tennessee residents. Respondent is a licensed principal broker.

Complainants (husband and wife) state they signed an agreement for Respondent to sell their property, which consisted of a 2,500 square foot house and 46.5 acres of land. They contend that Respondent went over parts of the contract with them, but they were not given time to study it. Complainants asked Respondent about dividing the property into three tracts, but Respondent did not think it was a good idea. Complainants contend Respondent's listing of the property was poor because they only had three couples look at it from July to October.

Complainants contend that Respondent told them someone had asked him if he had land to sell, and Respondent asked them if they would be interested in Respondent's land. Complainants state Respondent should not have mentioned anything to the prospective buyer about purchasing only the land without contacting them first.

Complainants state they did not sign a contract for changing the listing to land. The negotiations about the offer were done on the phone. Complainants contend that Respondent did not disclose that he had changed his status to facilitator, and they did not agree to it nor sign a document. Complainants state they were only given two hours to decide on selling their land. They claim they lost the sale of their whole property because Respondent became a facilitator and now are having to waste valuable time waiting on the listing agreement with Respondent to expire. Complainants believe Respondent was not honest in his dealings and took advantage of senior citizens.

Respondent submitted an answer stating that Complainants did ask about selling in tracts, and it was his opinion it would be better to sell it whole because the land was half wooded and half pasture. He went over the listing agreement with them and asked them to read it and let him know if they had any questions.

Respondent felt he did a good job advertising the property and did not know Complainants were unsatisfied with the listing. He could have made changes if they had told him. Respondent states a potential buyer had contacted him about a listing for a 30-acre tract. The 30 acres was not what he was looking for, and the buyer asked if Respondent knew of anything else. Respondent told him he had a house and 46.5 acres listed. The buyer told him he cut hay on the property and knew the sellers. He asked if he thought Complainants would sell him 40 acres to build a house. Respondent stated he would contact them and ask. Respondent called the Complainants and relayed the buyer's question about selling the land. The Complainants agreed to sell 40 acres at \$5,500 per acre, which the buyer accepted after a counteroffer.

When Respondent met with the Complainants to go over the offer, he explained to them about defaulting to facilitator because the buyer did not have his own agent. Complainants signed a confirmation of agency status disclosing the transition to facilitator before signing the purchase and sale agreement, which Respondent has provided. Respondent states he encouraged the Complainants to read all the documents. He states they seemed disinterested in that, so he sat down and went page by page telling them what was in the contract.

Respondent states he was never dishonest with Complainants nor tried to take advantage of an elderly couple. Respondent used more care dealing with them because of their age and encouraged them take time to read everything and ask questions before they sign.

Based on the information provided, it does not appear the Respondent violated any of the Commission's rules or statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

72. 2021001651

Opened: 2/1/2021

First Licensed: 9/20/2005

Expires: 9/19/2021

Type of License: Affiliate Broker

History: None

Complainant and Respondent are both licensed brokers. Respondent is an affiliate broker. Respondent is the listing agent. Complainant is the buyer.

Complainant states that he contacted Respondent in June 2020 about purchasing a property Respondent had listed. Complainant wanted allowed Respondent to write the contract so that she would receive both the buyer and seller's commission. Complainant alleges the listing stated the property was 0.37 acres. The listing also stated that the local ground water specialist had told prospective buyers that the lot would only 'perc' for a two-bedroom home.

Complainant alleges that he was told at the closing by the title agent that the lot was only 0.24 acres. Complainant closed anyway. Complainant states he was told there was a survey that

showing 0.24 acres. Complainant states the survey was dated ten months earlier. Complainant also contends he heard that the ground water specialist told someone they would be lucky to build any house at all.

Respondent submitted a response stating that the property went active in MLS on June 19, 2020. When Respondent entered the listing in MLS, the acreage amount of 0.37 was pulled from the tax records. Respondent provided a copy of the tax records, which represent the lot as 0.37 acres. Respondent had no knowledge of a survey at that time. Respondent sent a copy of the listing to sellers to review, and they responded, "Looks good." The sellers later notified Respondent by email on June 22, 2020, that they reviewed the listing again, and a new survey copy given to them says the land is 0.24 acres. Respondent replied to the email on June 23, 2020, at 10:43 a.m. stating that she had identified the lot size from the tax record but would add that a survey shows 0.24 acres. Respondent asked for a photo of the survey, which the seller sent. At this time Respondent added the new information to MLS and uploaded a photo of the survey.

Less than 30 minutes after the above-described communication with the seller, Complainant contacted the Respondent on the morning of June 23, 2020, to make a verbal offer on the listing. During the text exchange about the listing, Respondent advised Complainant at 11:16 a.m. that the seller "will provide her current survey to you." Respondent texted a photo of the survey to the Complainant at 11:29 a.m., which stated the property was 0.24 acres. On June 24, 2020, Complainant executed the purchase and sale agreement stating he was purchasing the property as-is with no septic or survey contingencies. He also executed a disclaimer advising him not to rely upon previous surveys or MLS data for total acreage information. The contract bind date was June 25, 2020.

Respondent had stated in the public remarks of the MLS listing that the lot was "previously estimated in 2018 as a 2br lot based on surrounding homes and lot sizes . . . but no perc test was completed." The Complainant signed a disclosure that septic system capability can only be determined by a professional soil scientist and verifying with governmental authorities.

Based on the information submitted by the Complainant and Respondent, Counsel does not find that the Respondent violated any of the Commission's rules and statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

73. 2021004811

Opened: 2/1/2021

First Licensed: 1/30/2014

Expires: 1/29/2018

Type of License: Affiliate Broker

History: 2017 Consent Order for Potential Unlicensed activity

Complainant is an out-of-state resident. Respondent has an affiliate broker license in expired

status.

Complainant is a citizen of a bordering state who is concerned about exploitive practices being used to prey on Tennessee small business owners during the pandemic. Complainant states that a bar/restaurant in a Tennessee city fell on hard times because of the pandemic and having to limit seating, hours, etc. The building was sold in June to the Respondent and his company for \$255,000.00. Complainant states Respondent put it back on the market for \$450,000.00 and told the business owners they would have to pay a much higher rent or move out. Complainant states the business has been trying to raise money on its own but may be forced to move soon. Complainant states he has no business interest in the bar/restaurant but has been a patron for many years and is trying to find ways to help the owners and avoid the closing of a local landmark.

Respondent submitted a response through his attorney stating that Respondent was not acting as a broker but merely the purchaser of the property. Respondent's attorney argues, incorrectly, that Complainant lacked standing to report a complaint to the Commission. He also argues that the Commission does not have jurisdiction over the transaction because Complainant is not a "broker" within the meaning of the Tennessee Real Estate Broker Act of 1973. Respondent's affiliate broker license was placed in retirement status and then expired in 2018 after Respondent failed to pay the renewal fee.

Tenn. Code Ann. § 62-13-104(a)(1)(A) provides that the Tennessee Real Estate Broker Act does not apply to an owner of real estate with respect to property owned or leased by that person. Therefore, the transaction is exempt. Counsel recommends that this matter be closed.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

74. 2020096551

Opened: 2/8/2021

First Licensed: 10/19/2004

Expires: 4/21/2022

Type of License: Real Estate Broker

History: None

Complainant is anonymous. Respondent is a licensed broker.

Complainant alleges that Respondent "lists" two current offices in violation of the Commission's rules on teams. She states that one of the offices listed has no license currently. In support the allegation, Complainant submits phone screenshots from Facebook search results in which Complainant appeared to target a search within the Facebook app of Respondent's name along with the name of a company. The search result showed Respondent's name along that company and as part of Respondent's work history. The end date for the employment with the old company on the list indicated it was through present.

Respondent submitted a response stating that she was part of a start-up company which began in 2016 and later became a different firm. She is no longer with that firm and the startup no longer exists. She unaware that any association with the old start-up company name was still any part of her personal account on Facebook until she received a copy of the complaint. She immediately went on to Facebook to delete that detail. She also made sure the old company could not be associated with her business profile. Respondent states she has been a Realtor® since 2001 and takes very seriously representing herself and her clients properly.

Respondent took immediate action to remedy any confusion about old information on her personal account and acted to ensure that a search could not bring up any association with an old company. Therefore, Counsel recommends a letter of warning concerning the Commissions advertising rules and statutes

Recommendation: Letter of warning concerning the Commission's advertising rules and statutes

Commission Decision: The Commission accepted counsel's recommendation.

75. 2021001921

Opened: 2/8/2021

First Licensed: 2/23/2010

Expires: 6/13/2022

Type of License: Affiliate Broker

History: None

Complainant is a licensed principal broker. Respondent is a licensed affiliate broker.

Complainant alleges that Respondent submitted an offer for a listing to one of Complainant's agents on January 8, 2021. Complainant claims that Respondent's license was expired at that time. Complainant states he notified Respondent's principal broker that his affiliate was writing offers without an active license. Complainant states the principal broker was not aware of Respondent's license status. Complainant alleges that the firm had processed closings during the time that the Respondent was unlicensed.

Respondent submitted an answer stating that she was unaware that her license had expired because the notice was sent to her office, which was closed at the time because of the COVID-19 pandemic. Respondent states that Complainant had told an agent to disregard the offer Respondent submitted because Respondent did not have a valid license. Respondent called Complainant to ask why she had stated this, and that is when Respondent discovered her license had expired. Respondent has since completed all the required education hours and paid the

requisite fees for reinstatement. Respondent's license was reinstated on February 18, 2021.

Respondent acknowledges that her license was expired while performing brokerage activity. Therefore, Counsel recommends a \$1,000.00 penalty for engaging in unlicensed activity. Respondent's license had been expired for a since August 14, 2020. Because it appears Respondent was employed as an affiliate broker during the expiration period between August 2020 and February 2021, Counsel recommends opening a complaint against Respondent's principal broker for employing a person who is not a licensed affiliate broker to perform brokerage activity and/or failure to supervise.

Recommendation: Authorize a \$1,000.00 penalty for engaging in unlicensed activity and administratively open a complaint against Respondent's principal broker for violation of Tenn. Code Ann. § 62-13-302(a) (employing a person who is not a licensed broker or affiliate broker for performing brokerage activity) and/or failure to supervise

Commission Decision: The Commission accepted counsel's recommendation.

76. 2021004921

Opened: 2/8/2021

First Licensed: 5/4/1993

Expires: 11/9/2022

Type of License: Real Estate Broker

History: None

Complainant is an out-of-state resident. Respondent is a licensed real estate broker. Respondent was the property manager for rental property owned by Complainant.

Complainant contends that Respondent renewed a lease with a tenant with a condition that tenant could break the lease with a 60-day notice if they used Respondent as a buyer's agent. Complainant alleges that she later became interested in moving back to Tennessee and wanted the tenant to vacate early. When she arranged to do a walkthrough, she states that she did not know the tenant had a cat in the property, and that she believed no pets would be allowed without owner's consent. Complainant asked Respondent to approach the tenant about moving out early and offer an incentive of a month's rent. Complainant claims Respondent tried to sabotage negotiations, asking for more money on behalf of the tenant and threatening that tenant's father was going to sue. Complainant states she fired Respondent on January 14, 2020 and requested Respondent to turn over the security deposit and keys. When Respondent had not yet received the security deposit, she submitted this complaint on January 21, 2021.

Respondent submitted an answer stating that when she contacted the tenant at Complainant's instruction about the renewing her lease, the tenant was uncertain about renewing and stated she may want to purchase a condo. Respondent asked tenant if she would agree to extending the lease if the owner would agree to allow tenant to give a 60-day notice if she wanted to end her lease early to purchase a property, and tenant would agree to have the rental ready to show prospective tenants. Respondent called Complainant to discuss the details about this, and

Complainant agreed. The tenant had gotten to know Respondent and asked if she could help find something else to rent or buy when the lease ended. This was unrelated to any provision of the lease extension.

Respondent denies that Complainant was unaware of the tenant's cat. Respondent states she discussed the cat with Complainant before leasing to tenant, and Complainant decided to add \$300.00 to the security deposit to cover the cat. Complainant also saw and approved the MLS listing when Respondent posted it for lease, which did not prohibit a pet.

Respondent states that when she received the Complainant's demand for return of the security deposit, she contacted her attorney for advice because the tenant and landlord were in dispute on the disposition of the deposit. She was advised to get a property management release to clean up outstanding issues with the property management agreement. When she did not get a response from Complainant or her attorney, she sent a check to Complainant for the security and pet deposits and the keys via certified mail on January 21, 2021. Respondent submitted a copy of the return check, which the Complainant deposited.

Based on the information provided by the parties, there is insufficient evidence that Respondent violated the rules or statutes of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

77. 2021007971

Opened: 2/8/2021

First Licensed: 9/22/2015

Expires: 9/21/2021

Type of License: Real Estate Firm

History: None

Complainant is a licensed affiliate broker. Respondent is a real estate firm that managed Complainant's property.

Complainant alleges that Respondent did not live up to their property management agreement. Specifically, Complainant contends he did not receive notice when a tenant failed to pay rent on January 1, 2021. When Complainant mentioned on January 22, 2021, that the firm should notify him when a tenant does not pay, he alleges he was told that they manage so many properties, he would probably have to contact them on the day he wants the information. Complainant also contends that a tenant paid partial rent and Respondent's statement incorrectly showed the tenant had a zero balance until Complainant reviewed the statement and realized an incorrect amount was listed. Complainant contends Respondent is unprofessional and refuses to act in his best interest.

Respondent submitted a response stating that rents are due on the 1st day of each month and only

considered late after the 5th. Respondent denies having received any inquiry from Complainant on January 1, 2021. Respondent states that a tenant would not be considered late if rent was not paid on the 1st because they have a four-day grace period pursuant to the lease. Respondent received a text message from Complainant on January 25, 2021, at 9:11 a.m. asking if his tenants paid rent. Respondent promptly responded “yes” at 9:23 a.m.

Respondent states that Complainant has access 24/7 to all his accounts. Every statement is uploaded to Complainant’s personal online portal and shows when rents are collected. Respondent states they have asked Complainant to give them a day he would like notification and told him they would be happy to add it to their calendar. Respondent states that although it is not provided in the management agreement that they will contact every owner by call or text if a tenant is late, the information is always available in the owners’ portal ledgers showing when the tenants pay.

Regarding the allegation about partial payment, Respondent states Complainant asked if the tenant had paid rent. The tenant did pay rent, and the information given was accurate. The amount on the balance statement was different because that tenant had a toilet repair request and had made a partial payment on the repair.

Respondent states they have been professional and diligent in all matters regarding Complainant. Respondent contends that Complainant is angry because of a disagreement over Complainant’s desire to withdraw from the management agreement without the required advanced notice.

Based on the information provided by the Complainant and Respondent, Counsel does not find that Respondent violated any of the Commission’s rules/statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel’s recommendation.

78. 2021006541

Opened: 2/16/2021

First Licensed: 9/6/1988

Expires: 4/26/2022

Type of License: Affiliate Broker

History: None

This is an administratively opened complaint. Respondent is a Tennessee-licensed affiliate broker.

On December 22,2020, Respondent pled guilty in the United States District for the Western District of Virginia to one count of conspiracy to commit bank fraud and obtain money by false pretenses in violation of 18 U.S.C. § 1344 and 18 U.S.C. § 1349. Respondent and her principal broker reached out to the Commission about the matter. Respondent has provided copies of the conviction and plea agreement, which provide that Respondent opened several bank accounts,

deposited counterfeit checks, and shipped large quantities of fraudulently obtained cash overseas to a man with whom she had an online relationship.

According to the plea admissions, Respondent engaged in a continuing scheme from February of 2019 through November of 2020 of opening a series of bank accounts for the purpose of depositing counterfeit checks and receiving fraudulent transfers of funds from other financial institutions. Respondent fraudulently received funds totaling \$190,000.00.

Respondent submitted an answer in which she argues that her license should not be revoked for the following reasons: (1) She is 76 years old and had never previously been convicted of a crime; (2) She has been a licensed broker in good standing in Tennessee and Virginia for many years; and (3) She did not use her real estate license to commit the acts to which she pled guilty.

Recommendation: Authorize a contested case hearing for revocation of Respondent's license for violation of Tenn. Code Ann. § 62-13-312(b)(12) (conviction for conspiracy to defraud/obtaining money under false pretenses).

Commission Decision: The Commission accepted counsel's recommendation.

79. 2021007891

Opened: 2/16/2021

First Licensed: 8/30/2019

Expires: 8/29/2021

Type of License: Affiliate Broker

History: None

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

On January 5, 2021, Respondent showed Complainant's home to his clients, who were potential buyers. Complainant contends that Respondent got blood on the floors and walls of the home, which she found after the showing. Complainant states the blood was not cleaned up by Respondent during the time he was in the home. Complainant states that she was watching the security system while Respondent showed the home and witnessed Respondent taking photos and videos. Complainant alleges Respondent did not have permission.

Complainant states that Respondent looked unkempt and was dressed in jeans. Complainant states she pulled Respondent aside and confronted him about taking photos/videos. Complainant claims that Respondent asked why they did not pick his firm to list the house. She alleges that Respondent then walked outside to her husband to solicit him about why he did not choose Respondent's firm to list the home.

Respondent provided a response stating that he had scratched his right forearm and was unaware that it was bleeding until Complainant approached him outside after the showing and asked, "Who needs a Band-Aid?" Respondent states he offered to go inside and clean up the blood, but Complainant told him no and said it was cleaned up. Respondent states he made sure to apologize to both the Complainant and her husband individually, and they appeared to accept his apology.

Respondent states he had other clients from out of state who were coming the following the week, and the house was on their list to see. He took video and photos while he was already showing the home to show the out-of-state clients. When Complainant asked him about taking photos, he explained and offered to let her view the footage. He said he would delete it if she wished. Complainant told him he did not need to delete it.

Respondent states that he did ask Complainant's husband for permission to ask for feedback after the transaction was completed about what his firm could have done differently to obtain the listing. The husband stated that he would not discuss it. Respondent states that Complainant's allegation about his appearance was untrue. Respondent states he was not unkempt, and that he takes pride in how he represents himself, his firm, and the profession.

Based on the information supplied by Complainant and Respondent, it does not appear that Respondent violated any rules or statutes of the Tennessee Real Estate Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

80. 2021008621

Opened: 2/16/2021

First Licensed: 10/9/2015

Expires: 10/8/2021

Type of License: Affiliate Broker

History: None

Complainant is anonymous. Respondent is a licensed affiliate broker.

Complainant contends that a certain parcel of property has been listed on real estate websites with what appears to be false information. Complainant submitted a snapshot from Zillow which showed that the property was sold on 1/3/20 for \$545,000, which Complainant states is far above market value. Complainant contends the listing showed Respondent's name at one time. Complainant states this was Respondent's home address and alleges that she submitted information to inflate the price of her home or to inflate her sales.

Respondent submitted an answer via her principal broker denying Complainant's allegations. Respondent states that she is a tenant at the address and not the owner. Respondent has never

listed the property for sale. Respondent states the property has neither sold nor been listed for sale since the last purchase date in 2014. The information on the Zillow screen capture provided with the complaint stating the property was sold for \$545,000 on 1/2/20 shows that the source of the date is "Public Record," not the Respondent. The Courthouse Retrieval System is inaccurately reporting that the current owner purchased it along with another parcel on 1/2/20. In 2018, Respondent sold a separate, unrelated parcel of commercial property to the current owner of the property in for \$545,000. It appears that public officials may have somehow put the parcels together in the public reporting system. Respondent states did not have any involvement with this nor any access to information feed into Courthouse Retrieval System.

Respondent provided copies of the Courthouse Retrieval System records and MLS history demonstrating the error. Based on the information provided, Counsel does not find any violation of the Commission's rules/statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

81. 2021008631

Opened: 2/16/2021

First Licensed: 12/8/2016

Expires: 12/7/2022

Type of License: Affiliate Broker

History: None

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

Complainant entered a contract to purchase real property owned by Respondent in June of 2020. Respondent was represented in the transaction by an agent. Standing water was found in the crawlspace during the home inspection. Complainant contends Respondent stated inaccurately that installing downspouts on the gutter drains and patching holes would be a solution. Complainant closed on the home in July. Complainant states the property was engulfed in rainwater during two heavy rain events in August and September. Complainant alleges that the flooding issue is a latent defect of which Respondent knew or should have known. Complainant states she has filed a lawsuit against Respondent in circuit court alleging breach of contract, fraudulent misrepresentation, and violations of the Tennessee Consumer Protection Act.

Respondent submitted a response stating that she had purchased the home in May of 2020 at an auction. After the buyer's inspection took place, buyer signed a repair amendment

with an attached proposed scope of project that would be completed by the homeowner. Buyer signed the final property disclosure after the repairs were completed. Respondent states that no flooding took place during her short time of ownership and that she had taken appropriate measures to resolve any issues.

The complaint pertains to the sale of property Respondent owned and allegations against Respondent as a homeowner, and, therefore, the transaction is exempt. Tenn. Code Ann. § 62-13-104(a)(1)(A) provides that the Tennessee Real Estate Broker Act does not apply to an owner of real estate with respect to property owned by that person. Additionally, the Complainant has a civil lawsuit pending against Respondent to address alleged damages concerning this complaint. Therefore, Counsel recommends that this matter be closed.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

82. 2021008921

Opened: 2/16/2021

First Licensed: 10/8/1999

Expires: 4/29/2022

Type of License: Affiliate Broker

History: None

Complainant and Respondent are both Tennessee-licensed real estate brokers. Respondent is an affiliate broker.

Complainant (buyer's agent) alleges that she submitted an offer on February 2, 2021, to Respondent (listing agent). She states that MLS had specific offer instructions stating that offers would be presented to seller for consideration on Thursday, February 4, and acceptance/decline notifications would be sent on Friday, February 5. Complainant contends that she reached out to Respondent on February 3, 2020, and was told that showings would stop on February 2 at 5:00 p.m. and offers had to be submitted by 7:00 p.m. Complainant states that her showing time was between 4:30 – 5:00 p.m. and did not end until after 5:00 p.m. Complainant states that she presented her offer at 9:31 p.m. on February 2 and received a confirmation at 9:41 p.m. with no mention of the offer needing to have been submitted by 7:00 p.m.

Complainant states the listing agent told her there was an update on MLS, which Complainant did not see before submitting the offer. Complainant states she was told that the seller accepted another offer before her offer was submitted.

Respondent submitted a response and provided a timeline of the events. He states the listing was submitted into MLS on February 1, 2021, and showing parameters were set at 4:37 p.m. On February 2, 2021, at around 2:35 p.m., the seller notified Respondent to cancel all showings for February 3, keep showings through 5:00 p.m. on February 2, and change the offer deadline to February 2 at 7:00 p.m. Respondent notified Showing Time at 2:45 p.m. to cancel the showings in accordance with the Seller's instructions. At 2:51 p.m. Respondent updated the realtors remarks in MLS to read: "Update – Seller has received multiple offers, no more showings after 5PM Today. Offers accepted until 7PM Today." Respondent provided a copy of MLS listing.

Respondent and seller began reviewing offers at 7:20 p.m. Respondent states that he received Complainant's offer at 9:32 p.m. and confirmed receipt at 9:41 p.m., which indicated it would be presented to the Seller. The seller reviewed and rejected the offer. Respondent denies that the seller accepted an offer before Complainant's offer was submitted.

Respondent states that Complainant told him she had to continue showing houses on February 2 after she finished the 4:30 – 5:00 showing, and that she did not get home in time to submit the offer until after the deadline. She stated she did not have time to review the MLS update. Respondent states he considers MLS as the first level of communication for all instructions as MLS can change by the minute.

Based on the information provided, Counsel does not find that Respondent violated any of the Commission's rules/statutes.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

83. 2021006911
Opened: 2/16/2021
First Licensed: 1/8/2016
Expires: 1/7/2022
Type of License: Real Estate Firm
History: None

Complainant is a California resident. Respondent is a Tennessee property management company.

Complainant states he employed the Respondent company for property management services until April of 2019. Complainant believes the owner of the company may be engaging in unlicensed activity. Specifically, Complainant contends that the owner has been the contact at the company, and that the owner's online activity allows people to believe that the owner is a licensed broker. Additionally, Complainant alleges that he was not paid for rent from one of his properties during March – May 2018. Complainant also claims that he discovered a missing payment for another property in October of 2020 that was paid to Respondent in April of 2020 before the management agreement was terminated.

Complainant also states he believes Respondent engaged in questionable accounting practices by paying contractors in cash. Complainant further alleges he spent thousands of dollars replacing roofs using Respondent's contractor of choice, and then one of the roofs leaked. Complainant contends that Respondent blamed the leak on the tenant installing a satellite dish after the repair, although Complainant believed the dish predated the repair. Complainant contends that one of the properties remained vacant for four months despite Complainant substantially lowering the price during that time.

The owner responded on behalf of the Respondent company and also provided a response through his attorney. The owner states that he is not a licensed real estate agent and has never held himself out as one. The owner submitted sample emails demonstrating that he informed current or prospective clients that he is not a licensed broker but could refer them to one. The owner provided links to his online profiles and denies holding himself out as a licensee in any profile.

The owner states that all of Complainant's properties had excessive repair and maintenance issues. The owner acknowledges that a mix up had occurred in March – May of 2018. He states that because of the tremendous amount of maintenance issues that were being handled on Complainant's properties at that time, three payments were inadvertently left off the statements for one of the properties. When Complainant brought the error to the owner's attention, the owner promptly corrected it.

The owner states that he terminated the management agreement on April 3, 2019, and Complainant hired a new management company that picked up all property, records, and other items related to Complainant's properties on April 4, 2019. After April 4, 2019, the local housing authority deposited a final payment for one of Complainant's Section 8 properties. The owner assumed the housing authority payments were going to the new management company. The owner states that when he was notified about the by Complainant in November of 2020, he immediately reached out to the housing authority for clarification and proof of payment. After receiving proof of payment and ensuring the payment was not already deducted from the account, the owner promptly hand-delivered a check to the new property management's office.

The owner states that the property was vacant for four months because it was unlivable and needed a total rehab/remodel due to holes in walls, cabinets falling off, and broken doors and windows. The owner claims Complainant was aware and approved all repairs. The owner states that all contractors hired by Respondent are paid by cash, check, or money order and provided with IRS Form 1099. The owner states the roof was repaired correctly and tenant added an additional satellite dish.

In reviewing the Complainant's management agreement with Respondent, the owner executed the agreement as the "Manager." Counsel noted the agreement provided that the owner as "Manager" was being employed to lease properties, collect rents, acquire tenants, advertise and display signs, sign leases, prosecute court actions to recover rent, and determine the monthly rent amount. Therefore, Counsel recommends a civil penalty against Respondent in the amount of \$1,000.00 for engaging in unlicensed activity.

Recommendation: Authorize a civil penalty of \$1,000.00 against Respondent for engaging in unlicensed activity in violation of Tenn. Code Ann. § 62-13-301.

Administratively open a complaint against the owner individually for potential unlicensed activity

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES

84. 2020093481

Opened: 1/4/2021

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration (Time Share Exempt)

History: None

Complainants are out-of-state residents. Respondent is a timeshare registrant.

Complainants executed a contract to purchase a timeshare membership on January 5, 2020. Complainants are seeking assistance in rescinding the contract. Complainants contend that a hard copy of the contract was not given to them when they departed the meeting, and there was no mention of a 10-day right of rescission. Complainants state they were given a copy of a thumb drive containing the contract documents, but the thumb drive did not fit into Complainants' MacBook Pro, which they had with them on their vacation. Complainants contend that after their vacation was over and they arrived at home, they found out there was not a copy of the contract on the thumb drive. Complainants wrote to the corporate office to request another copy, but the rescission period had passed. Complainants do not believe it is the same contract they signed.

Complainants contend that high pressure tactics were used to force them into purchasing the timeshare. They allege that they are having to pay maintenance fees that conflict with what was promised and are behind in the payments. They state they are being hassled by Respondent to make payments.

Respondent submitted a response stating that Complainants entered into a contract to purchase their timeshare membership on January 5, 2020. Complainants signed and received copies of all documents at the time of purchase, which fully disclosed the agreements between Complainants and Respondent and explain the Complainants' financial obligations. Complainants attended a closing with a Quality Assurance Officer to answer questions about their purchase. Complainants were given 10-day rescission rights in the contract. Once the rescission period expired, the contract became binding.

Respondent states that Complainants executed their contract documents through an electronic signing system and a copy was sent to the e-mail addresses they provided. As indicated in the Alternative Media Election Statement, Complainants were provided a

USB for their disclosures. Respondent contends Complainants were also provided the telephone number for the Quality Assurance Officer Specialist, but Respondent has no record of receiving a call/complaint from Complainants.

Based on the information provided by Complainant and Respondent, there is insufficient evidence that Respondent violated the Tennessee Timeshare Act of 1981. The rescission/cancellation period for the contract has expired. Pursuant to Tenn. Code Ann. § 66-32-119, Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract if they choose. Therefore, Counsel recommends this matter be closed.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

85. 2020095011

Opened: 1/19/2021

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration (Time Share Exempt)

History: None

Complainants are out-of-state residents. Respondent is a resort and timeshare registrant.

On October 31, 2019, Complainants entered into an agreement to purchase a timeshare. Complainants state they have been in a dispute over the validity of their timeshare agreement for the past year. They have not received the return on investment as promised, and the timeshare has become an unaffordable expense. They claim the process was rushed and that the software used for signatures allowed Respondent to skip fields. Complainants state the Respondent has internally reviewed their claims and denied relief. They state Respondent has stopped communicating with them after attempts to negotiate directly.

Respondent states that Complainant's usage of their timeshare memberships are optional and subject to the rules, regulations, terms, and conditions, which the contract documents disclose. The amount of vacation usage depends on the number of points allocated to a member's ownership interest and how they choose to use their points. Respondent states Complainants signed and received copies of documents at the time of purchase on October 19, 2019, which fully disclosed the agreements between Complainants and Respondent and explain the products Complainant purchased and Complainants' financial obligations. Complainants attended a closing with a Quality Assurance Officer who was present to ensure they were comfortable with

the purchase and understood all the financial obligations. Complainants were given rescission rights. Once rescission period expired, the contract became binding.

Based on the information provided by Complainant and Respondent, there is insufficient evidence of any violations of the Tennessee Timeshare Act of 1981. The rescission/cancellation period for the contract has expired. Pursuant to Tenn. Code Ann. § 66-32-119, Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract if they choose. Therefore, Counsel recommends this matter be closed.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

86. 2020092821

Opened: 1/19/2021

First Licensed: 9/29/2009

Expires: 9/28/2021

Type of License: Real Estate Firm

History: None

Complainants are out-of-state residents. Respondent is a resort and timeshare registrant.

On October 31, 2019, Complainants entered into an agreement to purchase a timeshare. Complainants state they have been in a dispute over the validity of their timeshare agreement for the past year. They have not received the return on investment as promised, and the timeshare has become an unaffordable expense. They claim the process was rushed and that the software used for signatures allowed Respondent to skip fields. Complainants state the Respondent has internally reviewed their claims and denied relief. They state Respondent has stopped communicating with them after attempts to negotiate directly.

Respondent states that Complainant's usage of their timeshare membership is optional and subject to the rules, regulations, terms, and conditions, which the contract documents disclose. The amount of vacation usage depends on the number of points allocated to a member's ownership interest and how they choose to use their points. Respondent states Complainants signed and received copies of documents at the time of purchase on October 19, 2019, which fully disclosed the agreements between Complainants and Respondent and explain the products Complainant purchased and Complainants' financial obligations. Complainants attended a closing with a Quality Assurance Officer who was present to ensure they were comfortable with the purchase and understood all the financial obligations. Complainants were given rescission rights. Once rescission period expired, the contract became binding.

Based on the information provided by Complainant and Respondent, there is insufficient evidence of any violations of the Tennessee Timeshare Act of 1981. The rescission/cancellation period for the contract has expired. Pursuant to Tenn. Code Ann. § 66-32-119, Complainants are still within the statute of limitations to pursue a civil lawsuit concerning the validity of the timeshare contract if they choose. Therefore, Counsel recommends this matter be closed.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

87. 2020095231

Opened: 1/25/2021

First Licensed: 4/22/1982

Expires: 10/27/2022

Type of License: Real Estate Broker

History: None

Complainant is an Indiana resident. Respondent is a retired broker.

Complainant alleges that Respondent is on the board of directors of a timeshare resort. Complainant contends that the resort's sales agents use high pressure tactics that swindle people into signing contracts to purchase timeshares. He states that when he purchased a timeshare in 2013, the sales agent told him he would sell the Complainant's timeshare, but he did not do so. Complainant contends this was a false claim and false advertising. Complainant acknowledges that Respondent is not the agent who made false claims. Complainant contends that Respondent should know about the sales practices and Complainant's grievances by virtue of sitting on the board and has done nothing.

Respondent's broker license has been retired since January 4, 2011, and it appears that he does not intend to continue in the profession. Respondent's license was retired at the time of the alleged timeshare sales transaction. Complainant has not alleged that Respondent engaged in any activity except sitting on the board of directors, and Complainant has offered no evidence of that. Complainant entered the contract for this timeshare purchase over seven years ago. Pursuant to Tenn. Code Ann. § 66-32-119, the statute of limitations for the Complainant to file a civil lawsuit concerning the validity of the

timeshare contract has expired. The cancellation must be done within a four-year period of the date of the contract. Therefore, based on the information provided, Counsel does not find that Respondent committed any violations of the statutes and rules of the Commission.

Recommendation: Close

Commission Decision: The Commission accepted counsel's recommendation.

Chairman John Griess adjourned the meeting at 11:22A.M.