



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

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

MINUTES

The Tennessee Real Estate Commission held a meeting on December 07, 2022, at 8:30 a.m. CST at the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, TN 37243. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission members were present: Commissioner DJ Farris, Commissioner Joan Smith, Chair Marcia Franks, Commissioner Jon Moffett, Vice-Chair Geoff Diaz, Commissioner Steve Guinn, Commissioner Stacie Torbett, Commissioner Joe Begley, and Commissioner Kathy Tucker were present. Quorum Confirmed. Others present: Associate General Counsel Anna D. Matlock, Associate General Counsel Jeffrey Caudill, Paralegal Carol McGlynn, Education Director Ross White, and TREC staff member Aaron Smith.

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

The motion to approve December 07, 2022, agenda was made by Vice-Chair Diaz and seconded by Commissioner Moffett. The motion passed unanimously.

The minutes for November 09, 2022, board meeting was submitted for approval.

The motion to approve November 09, 2022, minutes was made by Vice-Chair Diaz and seconded by Commissioner Smith. The motion passed unanimously.

INFORMAL APPEARANCE

Brett Fetters appeared before the commission with his Principal Broker, Chris Clabough, to receive approval for his Timeshare Salesperson license.

The motion to approve Mario Gomez was made by Vice-Chair Diaz and seconded by Commissioner Moffett. The motion carried unanimously.

WAIVER REQUEST

Executive Director Maxwell presented Billy Rigsby to the commission seeking a waiver for retesting due to Errors and Omissions revocation.

The motion to deny Mr. Rigsby's request was made Vice-Chair Diaz and seconded by Commissioner Guinn. The motion carried unanimously.

EDUCATION REPORT

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

The motion to approve courses D1-D40 was made by Vice-Chair Diaz and seconded by Commissioner Torbett. The motion passed unanimously.

An error within transmitting a course set to approve during November 09, 2022, meeting was omitted in error.

The motion to approve this course with a back date of November 9, 2022, was made by Vice-Chair Diaz and seconded by Commissioner Farris. The motion passed unanimously.

Education Director Ross White presented the Instructor Biography to the Commission.

The motion to approve the instructor's biography was made by Vice-Chair Diaz and seconded by Commissioner Moffett. The motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Maxwell updated the Commission on the topics below.

- **PSI TEST QUESTION REVIEW:** Director Maxwell discussed with the commission that it was time to review the PSI test questions and make any necessary changes regarding the Real Estate exam.
- **May 2023 TREC Board Meeting:** The commission discussed changing the date of the West Tennessee May meeting to Wednesday, May 10, 2023

The motion to approve the date change was made by Commissioner Smith and seconded by Commissioner Tucker. The motion passed unanimously.

COMMISSION DISCUSSION: The commission discussed taking time during the monthly meetings to revisit existing rules, laws, and processes. These would include “Sunshine Law” “Public Records Request” etc.

CONSENT AGENDA

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

A motion was made to accept Counsel’s recommendation for complaints 1-49 with the exception of the following complaints, which were pulled for further discussion: **2022036311, 2022028621, 2022028961, 2022029881.**

The motion was made by Commissioner Farris and seconded by Commissioner Torbett. The motion carried unanimously.

After further discussion by the Commission on complaint 2022036311, Vice-Chair Diaz motioned **to accept the counsel’s recommendation, and** Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022028621, Vice-Chair Diaz motioned **to accept the counsel’s recommendation, and** Commissioner Smith seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022028961, Vice-Chair Diaz motioned **to accept the counsel’s recommendation, and** Commissioner Torbett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022029881, Commissioner Smith motioned **to accept the counsel's recommendation, and** Commissioner Torbett seconded the motion. The motion carried unanimously.

**Anna Matlock:
New Complaints:**

- 1. 2022033681**
Opened 8/30/2022
First Licensed: 10/24/2007
Expires: 7/10/2023
Type of License: Affiliate Broker
History: None

Complainant is an out of state resident. Respondent is an affiliate broker. Complainant alleges throughout the time Respondent served as their agent, Respondent failed to check in with them and provide the necessary support required for their custom home during interactions with their builder. Complainant alleges Respondent was demanding, left them out of communications regarding their home, acted unprofessionally, and requests to be released from their contract. Complainant submits no documentation to support their allegations against Respondent.

Respondent answered the complaint stating Complainant is the fiancé of a buyer they have previously worked with on five (5) previous transactions. Respondent states Complainant first contacted them to assist their fiancé in keeping the progress of the project on time and monitoring the budget overages. Respondent states they explained to Complainant budget overages is not their area of expertise but prepared a spreadsheet with deadlines, coordinated with the builder, and followed up with both Complainant and their fiancé during the transaction. During this process, Respondent states they were in constant contact with Complainant and their fiancé and spent significant time on the project with many of the tasks falling outside of their typical job responsibilities. Respondent denies the accusations made against them by Complainant. Respondent submits a copy of the transaction file in support of their response.

Complainant submitted a brief rebuttal refuting Respondent's response. After a review of the complaint file and the documents submitted, Counsel finds no information to support the allegations made by Complainant and finds no violations of the rules and statutes by Respondent. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 2. 2022033831**
Opened: 9/6/2022
First Licensed: 1/1/1901

Expires: 11/16/2024
Type of License: Real Estate Firm
History: None

This complaint is related to REC-2022033681, complaint #1.

Complainant is the same in REC-2022033681, a complaint #1, a Tennessee resident. Respondent is the real estate firm for the affiliate broker. Complainant alleges they were informed they could not terminate their agreement which Complainant believes to be false. Complainant alleges their agreement states that either party can terminate at any time and is trying to move forward in an amicable manner without a third party.

Respondent answered the complaint through their principal broker (“RPB”). RPB states they received a text message from Complainant requesting a phone call due to concerns with their agent and needs to disengage and collect their earnest money. RPB explained to Complainant that since Complainant had a signed contract on a custom home build, release from the contract is left to the builder/seller. RPB states Complainant continued to criticize their affiliate broker and RPB informed Complainant they were available if they needed anything. RPB informed Complainant it was important to remain in contact with the builder during custom builds. RPB states they also contacted the builder for feedback and were informed by the builder Complainant has made no request to cancel and the contract is moving forward. The builder stated Complainant was slow in making decisions and paying for overages, but RPB’s affiliate was helpful in moving Complainant along. RPB concludes stating they are continuing to assist in the disagreement with Complainant.

Complainant submitted a rebuttal stating RPB never called them back and were instead texted, that the affiliate and now RPB are unprofessional, and that Respondent can and should disengage on their own. Based on the information, there is no evidence Respondent has violated any rules or statutes. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

3. 2022034961
Opened 8/30/2022
First Licensed: 7/30/2015
Expires: 6/5/2024
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a principal broker. Complainant alleges Respondent is advertising with incorrect information and has requested Respondent correct this information. Complainant submits a screenshot of a social media profile of Respondent’s information with their name, and where they work.

Respondent answered the complaint stating their firm information was changed on the social media website prior to receipt of the complaint. Additionally, Respondent provides that all social media

websites affiliated with their previous firm were disabled until the social media site can review the requested name change and apply them and this takes seven (7) business days.

After a review of the screenshots submitted by Complainant, it does not appear that this matter falls into the definition of advertising as found in Tenn. Comp. R. & Regs. 1260-02-.12(1) which provides “all advertising, regardless of its nature and the medium in which it appears, which promotes either a licensee or the sale or lease of real property...” Here, Respondent is listing their profession on their “About” Section” of their personal social media page. It is listed along with their schooling, current location, hometown, marital status, a brief introductory statement, and the pronunciation of their name. Counsel does not find that Respondent is “promoting” themselves as a licensee as required in Tenn. Comp. R. & Regs. 1260-02-.12, and therefore does not believe this matter falls into the category of advertising. Especially as this issue has been corrected, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

- 4. 2022035061**
Opened 8/30/2022
First Licensed: 8/1/2013
Expires: 7/31/2023
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges their contract states the owner must provide a current survey showing the boat dock was completely within property lines. Complainant alleges Respondent and their principal broker knew the dock location were encroaching on the adjacent property owner’s lot due to a previously failed contract. Complainant alleges this information was never disclosed verbally or in writing by Respondent. Complainant further alleges they have evidence one side of the dock was removed for the survey, in order to show the dock was on their purchased property. Also, Complainant states the dock was reassembled for their walkthrough, but completely in the marsh and mud and detached from its anchors. Complainant alleges they were told this happens during storms and a dock expert would repair the anchor cables and return the dock each time. Complainant provides no evidence to support their claims.

Respondent answered this complaint through counsel (“RC”). RC explains Complainant filed a complaint in a Tennessee county in June 2021 concerning facts raised in the complaint. RC provides Respondent denies they schemed with the seller or intentionally took any action to defraud or misrepresent the facts to Complainant. Respondent denies disassembling the dock and moving the dock at any relevant time and that any actions constitute fraud or a criminal act. RC states Complainant was provided the survey completed by the previous potential buyers of the property via email in June of 2020 and were also made aware of the location of the dock and provided the same previous survey the previous potential buyers had done of the property prior to closing. RC provides Respondent gave the CRS Property Report from the MLS Tax Suite to Complainant prior to closing. Additionally, RC states Complainant contracted for a survey to be

provided by the seller that was within property boundary lines and that Complainant elected to terminate their first contract in part to dissatisfaction with the dock. RC denotes the Purchase and Sale Agreement includes a Special Stipulation providing the purchase is contingent upon the dock being repaired and position according to the dock permits afforded by the survey.

Respondent's principal broker ("RPB") submitted a response stating Respondent has been in pending litigation regarding this matter since June 2021. Further, RPB states while this predates their time as principal broker, all information they have regarding this indicates all accusations are unequivocally false and inaccurate. RPB provides any and everything was properly disclosed and handled prior to closing, the final walkthrough, and in correspondences. Complainant provides no information to support their allegations, nor a rebuttal to refute any of the remarks made by RC, Respondent, or RPB. There is no evidence to suggest that Respondent had any involvement in altering the dock location or the survey related to the subject property. Conversely, Respondent has provided substantial documentation to support their lack of involvement in the events, including the transaction files. Though underlying litigation remains pending on matters related to the issues raised by Complainant, Complainant provides no evidence or documentation to this Commission to support their allegations which retains its own separate jurisdiction. Therefore, due to lack of evidence and information, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 5. 2022035101**
Opened 8/30/2022
First Licensed: 6/23/2005
Expires: 12/4/2023
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant, seller, alleges that Respondent, buyer's agent, took a tour of their home with their client and later sent Complainant's agent twenty-three (23) photographs from the showing. Complainant alleges they explained to their agent that their rabbits lived in the home and were contained in their carriers, but two (2) additional rabbits were upstairs under a bed and not in a carrier. Complainant alleges the photos sent by Respondent show Respondent's client's "hovering under the bed taunting their rabbit with a stick." Complainant states they are horrified by Respondent's behavior as this could have caused harm to their rabbits and it is common sense you do not touch another person's pets without explicit permission. Also, Complainant alleges Respondent's photographs include images of the inside of their medicine cabinet, which Complainant believes to be highly inappropriate and unethical. Complainant believes Respondent permitted their clients to disrespect their home and their pets, acting outside of the reasonable expectations of a real estate agent.

Respondent answered the complaint stating Complainant's representatives did not disclose to them verbally or in writing there would be loose animals in the home, nor were they told not to interact with the animals. Respondent states the rabbits were running loose in four (4) of the five (5) rooms of the home, and while inspecting a bedroom the animals suddenly scurried out from under the

bed startling their client. Respondent states their client had a child and picked up a hay and straw stick already present on the floor, and Respondent informed the child to not touch the rabbits or the hay. Respondent states Complainant's spouse toured the property virtually during the showing. Respondent states their client was clearly interested in the property and took pictures to make note of the damage in the property, and pictures of the kitchen cabinets to get an estimate on refinishing the damage. Respondent states they acted responsibly and within the rules of their profession, including closing all doors, locking the property, and ending the showing on time.

Respondent's principal broker ("RPB") submitted a response in support of Respondent also noting Complainant's spouse toured the home virtually during the showing. RPB noted Respondent took pictures of condition and improvements needed of areas not provided in the MLS pictures, also as a "list" to discuss with the listing agent to hopefully prepare an offer. RPB also confirms there was no mention of the rabbits from the listing agent, or instructions provided on the MLS, otherwise those instructions would have been complied with. Complainant provided a rebuttal with an undated screenshot of their instructions related to the rabbits to their real estate agent and states they cannot be held responsible for their agent's failure to inform Respondent. Complainant denies animals were running around, reiterates one should not interact with another's animals without permission, and states that had Respondent asked their agent about an offer with contingencies or seller allowances, Respondent would have discovered Complainant does not consider under-asking offers or seller allowances. Complainant states their listing price reflects any issues/cosmetic flaws they deem necessary, and they would not under any circumstances sell their home to any client of Respondent's. Based on the information provided, Counsel does not find Respondent in violation of any rules or statutes, or anything in Respondent's conduct to be egregious or unreasonable. There is no information provided by Complainant to support that Respondent was aware of any instructions related to their animals prior to the showing. Complainant provides no photographs showing the inside of their medicine cabinet, or anything "disrespectful" of their home or animals in the photographs submitted. Further, as supported by Respondent and their principal broker, Complainant's spouse was present, virtually, during the showing. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

6. **2022033971**
Opened 8/30/2022
First Licensed: 5/25/2010
Expires: 5/24/2024
Type of License: Real Estate Firm
History: None

This matter is referred from the Office of the Attorney General, Division of Consumer Affairs.

Complainant is a Tennessee resident. Respondent is a real estate firm. Complainant alleges their heating, ventilation, and air conditioning ("HVAC") unit was not working and reported to Respondent via email and telephone following inspections by four (4) different companies. Complainant details several issues during this process including plumbing leaks, no working air

conditioning (“AC”), and the control board of the HVAC catching fire which lead to cutting off the breaker to the AC. Ultimately, an electrician was sent that found over Nine Thousand Dollars (\$9,000.00) in repairs. Complainant alleges Respondent stated that if the breaker was shut off, the safety risk was absolved. Complainant alleges after these issues; they were only credited one (1) month’s rent. Then, Complainant states they requested termination of their lease without penalty and return of their security deposit. Complainant alleges Respondent refuses to provide them moving expenses and their security deposit while living in a house without HVAC.

Respondent’s principal broker (“RPB”) submitted a response. RPB states that upon notification of Complainant’s broken AC on June 14th, they were provided a portable AC unit on June 15th until Respondent could find an available HVAC vendor. RPB states Complainant notified them on June 17th they wished to terminate their lease due to the AC not working and would consider a rent credit. RPB states on June 21st, a leak was repaired and then on June 22nd a new portable AC unit was provided along with notification that Complainant would receive a utilities credit. Further, RPB states on June 22nd, Complainant was provided the rent credit and then on July 7th, Complainant requested a second rent and utilities credit. RPB concludes by stating the plumbing repair began on July 11th and concluded on July 14th.

Complainant submits a rebuttal refuting RPB’s timeline of events, stating the issues with the HVAC began much earlier and this statement fails to mention the AC had not been fixed when they moved out on July 29th, the breaker catching fire, and Respondent declining to provide safe housing arrangements. Based on the information provided, Counsel believes that this matter is a landlord tenant dispute and substantively does not fall within the jurisdiction of the Commission. However, as Respondent is a licensed real estate firm, their overall does fall within the jurisdiction of the Commission. Counsel finds no evidence to suggest that Respondent is violation of the rules and statutes of the Commission. The underlying substantive issues complained of, are those addressed in the *Tennessee Uniform Residential Landlord Tenant Act*, and therefore best suited for a court of competent jurisdiction. Therefore, Counsel recommends this matter be dismissed for lack of jurisdiction.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

7. **2022034801**
Opened: 9/6/2022
First Licensed: 3/14/2016
Expires: 3/13/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant states they purchased a property from Respondent, representing themselves as the seller and the selling agent. Complainant alleges Respondent listed nothing of concern on the Tennessee Residential Property Condition Disclosure form, but upon moving into the property and removing the carpet in a bedroom noticed staining and possible subfloor damage on the wall shared with the master bathroom. Complainant alleges they discovered a receipt in a binder left by Respondent from a

plumber following repair from a leak that noted possible floor damage, but states this was not brought up in negotiations of the Property Disclosure Form. Later, Complainant states they had a licensed contractor come and assess the damage upon removal of the tile and drywall and discovered the subfloor was rotted. Complainant alleges they contacted Respondent to question about the issue and for financial assistance and Respondent declined to continue the conversation and suggested contacting an attorney. Complainant believes Respondent has committed fraud and states Respondent is unwilling to work with them on rectifying the issue.

Respondent answered the complaint stating they originally owned the property with their former spouse for ten (10) years and the property is over one hundred (100) years old. Respondent states in a 2018 bill it states there was a very slow leak that might cause floor damage. Respondent provides the wall was opened and discovered there was no problem, a valve was installed, and the bill provides no information for further repair or maintenance. Respondent states since group was mentioned, they called a contract to re-grout the shower and no problems occurred with the shower, nor was the bedroom carpet wet or the floor ever soft so the tile was never removed. Additionally, Respondent states that Complainant had many inspections during the purchase of the property and no issues were ever found with the bedroom or bathroom. Also, Respondent states Complainant had contractors visit the property during the purchase property, including two (2) foundation inspectors that looked under the property, Respondent extended the inspection period until the business day before closing, and Complainant was provided Forty Thousand Dollars (\$40,000.00) in concessions to use toward whatever repairs Complainant needed while accepting the property "AS IS." Respondent closes providing the tile and carpet in the master and spare bedroom were the original that existed when purchased with the property and never replaced. Respondent states that Complainant never made the stained wood known until they moved in and removed the carpet and tile, and therefore Respondent does not know when this stain occurred.

Complainant provides a rebuttal refuting much of Respondent's response. Complainant provides their inspectors were not able to access all areas underneath the crawl space as the height of the crawl space was too narrow for them to safely navigate. Additionally, Complainant states their contractors did not come to inspect for leaks and the negotiated monetary amount did not include repairing the floor and joists underneath the master bathroom. Complainant also alleges it would take numerous months for the damage in question to accrue. The Tennessee Residential Property Condition Disclosure requires sellers to disclose all known material defects and to answer the form in good faith to the best of the seller's knowledge as of the Disclosure date. Based on the information provided by the Parties, it does not appear that Respondent was aware of the issue at the time of completion of the Disclosure form. The subject issue was not discovered until Complainant removed the carpet, tile, discovered a stain, and subsequently removed the drywall. Additionally, Complainant relies upon a receipt for an issue that dates back 2018, without firm confirmation that this is the event that caused the issue. While it is certainly possible, Counsel does not find the evidence undisputed. Further, Complainant in the Purchase and Sale Agreement waived the option to request items be repaired or replaced, without a resolution period, to either furnish Respondent with a list of written specified objections and terminate in nine (9) days, or accept the property AS IS. Therefore, Counsel finds no violation of the rules and statutes by Respondent and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

8. **2022035581**
Opened: 9/6/2022
First Licensed: 7/20/2020
Expires: 7/19/2024
Type of License: Affiliate Broker
History: None

Complainant is anonymous. Respondent is a licensed affiliate broker. Complainant alleges Respondent is going "LIVE" on a social media site, broadcasting, and recording their cold calls for thousands to hear without obtaining proper consent from the caller. Complainant also alleges Respondent is claiming they work for particular real estate entity they are not affiliated with. Complainant alleges that while Respondent may have paid for leads from that entity they are not employed by that entity, which is misleading. Complainant states they have left a voicemail with Respondent's principal broker related to Respondent's conduct. Complainant alleges in the social media site comments, individuals were leaving comments stating Respondent's actions were violations of privacy and FCC laws.

Respondent answered the complaint stating that prior to going live on the social media site, they reviewed Tennessee law on recording/going live on phone calls. Respondent states that Tennessee is a one (1) party consent state in phone communication, and they serve as the one (1) party that consents. Respondent states during the cold calls they are calling leads generated by a real estate entity and when they greet the caller, they explain their information was obtained through the third party and they do not work for the third party. Also, Respondent states they ensure no important information is leaked, including phone numbers, credit card information, and exclusive personal information. Complainant provides no information to support their allegations. Further, after a search of Respondent's social media profile, Counsel finds no postings to support any of the information found in the originating complaint. Respondent's social media profile does not indicate they are associated with the other real estate entity mentioned in the complaint. Due to the lack of evidence, and the fact that Complainant is anonymous, and Counsel cannot request additional information. Therefore, Counsel finds no violation of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

9. **2022035601**
Opened: 9/12/2022
First Licensed: 11/1/2006
Expires: 10/31/2024
Type of License: Affiliate Broker
History: None

Complainant and Respondent are affiliate brokers. Complainant alleges they were procuring cause for Respondent's buyers to place an offer on a property. Complainant alleges Respondent informed

them they had a Buyer Agreement, but never showed the buyers any properties prior to Complainant showing them the subject property. Complainant states Respondent is the listing agent for the property the buyers are attempting to sell. Complainant alleges the buyers were unaware they signed a Buyer's Agreement with Respondent and when the buyers wished to use Complainant as their agent for the subject property, Respondent informed Complainant they would pay Complainant a 20-25% referral fee prior to August 11th. Complainant alleges Respondent wrote the accepted offer for the subject property and has yet to receive a response from Respondent though they sent a referral agreement on August 25th.

Respondent answered the complaint stating Complaint did show the subject property to their clients who stated they were working with Respondent as their listing agent for a separate property. Respondent states days later they were contacted by their clients wanting to make an offer on the subject property. Respondent's clients informed them they believed they were working with the property's listing agent, a different agent, not Complainant (the listing agent of the subject property and Complainant have the same first name). Respondent states once they were informed by their clients of Complainant's involvement, Respondent called Complainant and apologized on their clients' behalf and offered to compensate Complainant for their time. Respondent states Complainant hoped to be compensated at least 25% and Respondent replied they did not know, but once the deal was settled Respondent would be happy to compensate Complainant. Respondent states this was good will on their part, and they are not obligated to compensate Complainant. Respondent confirmed they have not responded to Complainant's emails or calls as they believe Complainant is attempting to get them to sign a referral compensation agreement which Respondent believes is unnecessary and premature with a pending transaction. Further, Respondent states they believe this action to be violation of Tenn. Code Ann. § 62-13-603 or soliciting a referral fee from a real estate licensee without reasonable cause. Respondent states they also learned Complainant contacted their clients by phone after they learned Respondent represented them as their agent, and per their clients Complainant attempted to shame their clients for their conduct since they "should have known better" as their clients' brother is a real estate broker, which they believe to be a violation of Tenn. Code Ann. § 62-13-604. Respondent provided a statement from their clients stating they were contacted by their neighbor about "a real estate friend of the neighbor's showing them a condo." Respondent's clients state they believed Complainant to be the listing agent on the sign (as they have the same first name) the whole time and were not knowledgeable enough to know they were not the same person. Respondent's clients confirm Respondent is their agent of choice and confirm Respondent's statement of events.

Complainant submitted a rebuttal reiterating Respondent's clients/the buyers stated they did not have a written agreement with Respondent and does not believe they were ever confused but instead wanted a discounted listing and were possibly coached by Respondent in their supplied letter. Complainant now states they explained if they showed Respondent's clients/the buyers the subject property, Complainant would be the agent to write the offer. Complainant argues Respondent's clients/the buyers stated they understood this and are educated people and knew Complainant was not the listing agent for the subject property. Complainant further reiterates Respondent is the one that offered the 20 or 25% referral fee, not Complainant. Complainant hopes Respondent will uphold this agreement and believes not doing so is unprofessional. After reviewing the information submitted by Complainant, Respondent, and the statement by Respondent's client/the buyers, Counsel does not find any violation of the rules and statutes by

Respondent. It appears the details of the arrangement and details between Parties are unclear, and the absence of a written agreement, except the existing Buyer's Agreement between the Respondent's client/buyers and Respondent, make it difficult to support one narrative of events over the other. Tenn. Comp. R. & Regs. 1260-02-.02(8) provides the Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates. Here, it appears the ultimate issue appears to be the issue of whether Respondent is obligated to pay Complainant the 20% or 25% "referral fee" or "compensation" related to the transaction. Counsel does not believe this is a matter for the Commission to decide, if anything, it appears to possibly be contractual, an issue best suited for a civil court, or at the local professional association level related possibly to ethics or professionalism. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

10. 2022036731

Opened: 9/12/2022

First Licensed: 7/25/2005

Expires: 7/24/2023

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges a MLS listing is marketed with their dock associated with their property. Complainant further states Respondent includes multiple pictures of their property in the advertisement that are included without their permission and fraudulently advertised for sale. Complainant states the property listed does not have a dock or access to dock rights.

Respondent answered the complaint stating according to the charter and the owner of the property, the dock is a shared dock. Respondent states the owner of the property listed in the MLS owns two (2) properties that adjoin and may use the same dock that belongs to a specific named individual. Respondent attaches a copy of the bylaws for review. Complainant provides a rebuttal stating the members of the bylaws do not include the property owner in the MLS listing, which means they have a 0% interest in this community dock and not part of the charter. Based on the bylaws provided by Respondent, Complainant is correct in the that the property listed in the MLS is not included in the "Bylaws and Dock Association Agreement of [Redacted Name]." Per a simple property search through Google, and the Property Assessor for the associated Tennessee county, the property in question is neither lot six (6) nor lot nine (9) as provided in the "Bylaws and Dock Association Agreement of [Redacted Name]." Therefore, Counsel recommends Respondent be assessed a One Thousand Dollar Civil penalty for misleading or untruthful advertising, or violation of Tenn. Code Ann. § 62-13-312(b)(4).

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

Commission Decision: The Commission accepted counsel's recommendation.

11. 2022036441
Opened: 9/19/2022
First Licensed: 1/31/2006
Expires: 3/4/2023
Type of License: Principal Broker
History: None

This is an administratively opened complaint related to previously presented complaint REC-2022015321. Counsel has provided the summary for the complaint below:

Complainant is anonymous. Respondent is a licensed principal broker. Complainant alleges Respondent has gotten away with many unprofessional real acts and no real estate company wants the liability, warning the public is not safe. Complainant alleges Respondent has people sign agreements binding them in business forever. Complainant provides a copy of an advertisement listing Respondent's name, cellphone number, email address, a possible firm name, and a telephone number. The same information is also listed for two other individuals.

Respondent answered the complaint stating they are not aware of any unprofessional acts and consider themselves to be a professional, considerate, caring, and conscientious person and real estate agent. Respondent denies they have caused any firm liability and also denies having any agreements that require individuals to sign agreements requiring them to work with Respondent forever. Respondent states they are not aware of a requirement to have an address listed on an advertisement for an agent or agency within the firm. Respondent closes stating the accusations are unfounded and inaccurate.

Complainant provides no information to support the allegations made against Respondent's business practices and there is no way for Counsel to contact Complainant for further information. However, Counsel does find that the advertisement included does violate Tenn. Comp. R. & Regs. 1260-02-.12(3)(b). It is required that the firm name be the same size or bigger than those spelling out the name of a licensee or the name of any team, group, or similar entity. The entire firm name in the advertisement is smaller than a listing of the Respondent's last name, the same as the two other agents with the firm, and the last portion of the d/b/a on file with the Commission. As this is a first-time advertising violation, Counsel recommends Respondent be assessed a Five Hundred Dollar Civil Penalty for violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(b).

The Commission assessed a Five Hundred Dollar (\$500.00) civil penalty to Respondent's affiliate broker and voted to open this administrative complaint, as this Respondent is the principal broker.

Respondent in this complaint, the principal broker, answered the complaint apologizing for the advertising violation, stating they opened their firm in February 2022 stating at that time they only had three (3) agents, all with the same last name. Respondent acknowledges the error in their advertisement and states they have taken steps to direct their team to be mindful of the advertising regulations going forward and they are watching very closing in all areas. Respondent also states in June of this year they took a twenty (20) hour continuing education ("CE") course intended for

new managing brokers where they learned and implemented many things. Respondent states they also took a second ten (10) hour CE course. Tenn. Comp. R. & Regs. 1260-02-.12(3)(b) states that all advertising shall be at the direction of the principal broker. Therefore, Counsel recommends the Respondent be assessed a One Thousand Dollar Civil (\$1,000.00) penalty.

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

Commission Decision: The Commission accepted counsel's recommendation.

12. 2022036311

Opened: 9/19/2022

First Licensed: 3/10/2022

Expires: 3/9/2024

Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident. Respondent is a real estate firm. Complainant states they attempted to purchase a property and their agent, an employee of Respondent, rushed them through the process and mishandled their earnest money. Complainant states they will attach a timeline of events detailing the affiliate's negligence, misrepresentation, and breach of duty, but fails to attach the document. After an attempt to contact Complainant regarding changing the Respondent to the affiliate and for the timeline, no reply was received.

Respondent's principal broker ("RPB") answered the complaint. RPB states their affiliate broker showed Complainant many homes all over Tennessee and ultimately liked and settled with the subject property, requesting an offer be written. RPB states Complainant's offer was accepted, but later Complainant refused to pay their original offer price when the appraisal came back higher than anticipated. RPB explains ultimately, they agreed to reduce their commission to get Complainant and sellers to accept and sign the Purchase and Sale Agreement. Later, RPB explains the contract terminated due to Complainant refusing to accept the terms of their financier and the seller refusing to extend closing, with the earnest money forfeited to the seller. RPB states Complainant refused to sign the earnest money release. RPB states ultimately Complainant requested release from their Buyer Representation and RPB informed Complainant they would be happy to do so once the contract ended. RPB closes stating they do not believe they failed to be transparent, negligent, breached any duty, or made any misrepresentations during the transaction. RPB believes they did everything they could to close, but ultimately Complainant was upset with their lender. Based on the information provided by Respondent, and the lack of information provided by Complainant, Counsel finds no information or evidence to substantiate Complainant's allegations. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

13. 2022033791
Opened: 9/12/2022
First Licensed: 4/20/1999
Expires: 12/31/2022
Type of License: Time Share Registration
History: None

Complainant is an out of state resident. Respondent is a timeshare company. Complainant signed a contract with Respondent in October 2021 and alleges in lieu of their original offer, Respondent refused to honor their original offer and provided Complainant a deed. Complainant alleges during the sales presentation Respondent failed to mention the fees they would pay each year to maintain their property and vacations were difficult to book as rooms were continuously unavailable. Complainant alleges they have now been downsized to a room that does not accommodate their family and Respondent continues to lie to them. Complainant requests assistance to leave their timeshare.

Respondent answered the complaint stating Complainant purchased a timeshare interest on September 14, 2021, and denies any false misrepresentations were made at the sales presentation attended by Complainant. Respondent states Complainant was provided booking availability for two (2) separate dates in their March 28, 2022, inquiry. Additionally, Respondent states Complainant freely and voluntarily purchased a timeshare interest upon their full and fair disclosure of all the terms and conditions associated with their purchase. Respondent provides a copy of the executed Purchase and Sale Agreement for review. In closing, Respondent declines to cancel Complainant's contract as this was not done in accordance with the mandatory terms of rescission disclosed in the Purchase and Sale Agreement. However, as Complainant has a past due balance, their account was cancelled due to default on June 13, 2022. Respondent provides no refund will be provided and Complainant has no further contractual obligations, with Respondent keeping all monies as liquidated damages as per the Purchase and Sale Agreement. Based on the information provided, including Complainant failed to rescind their contract during the rescission period and their contractual obligations terminated on June 13, 2022, Counsel finds no violations of the rules and statutes by Respondent and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

Jeffrey Caudill:
New Complaints:

14. 2022028391
Opened: 8/1/2022
First Licensed: 8/17/2012
Expires: 8/16/2024
Type of License: Real Estate Firm
History: None

The Complainant is a prospective renter. The Respondent is a Real Estate Rental Location Firm.

Complainant states they signed a lease from Respondent on June 15, 2022, and paid a deposit of \$2,721.00. On June 29, 2022, Respondent notified Complainant that the home was no longer available because the tenants decided to stay. The lease was subsequently terminated by Respondent. Complainant alleges fraud and theft because as of July 13, 2022, they had not received her deposit money from Respondent. Complainant states in follow up correspondence that she received all the deposit money due her (\$2,721.00) on July 18, 2022.

Respondent's attorney states the property was advertised as "Coming Soon," meaning the existing tenant has indicated that they will not renew their lease and will be vacating the property. Respondent states the existing tenant retracted their notice to vacate, and maintained their continuous presence in the home, preventing Respondent from delivering possession to the Complainant. Respondent states that according to the lease terms, they can terminate a lease if unable to deliver possession on the date the lease term begins.

Further, Respondent states that Complainant asked for a refund of the deposit money; however, Respondent states the deposit money was accidentally applied to a different property in their system resulting in a delay in processing the refund. Respondent states the full refund check was delivered on July 15, 2022, and cleared on July 18, 2022.

Complainant submitted documentation, which indicated the refund was mailed on July 15, 2022, and received by Complainant on July 18, 2022. It appears that while there was a mistake made causing a delay in the delivery of the refund check to Complainant, Respondent paid Complainant the full refund due within a reasonable time.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

15. 2022031261
Opened: 8/1/2022
Unlicensed
History: None

Complainant was a prospective renter. Respondent is an apartment complex.

Complainant states his application was denied because of his credit score. His complaint is that the Respondent is not supervised by a principal broker.

Respondent states that Complainant was denied because of his credit history, that Complainant was advised of such and advised that he should obtain a copy of his credit report for his own reference.

T. C. A. § 62-13-104(a)(1)(E) states: *"This chapter does not apply to: A resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex or*

residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property. The resident manager or employee shall not negotiate the amounts of security deposits or rentals and shall not negotiate any leases on behalf of the broker... ”.

Respondent is exempt from licensee requirement.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

16. 2022031271
Opened: 8/8/2022
First Licensed: 11/23/2020
Expires: 11/2/2024
Type of License: Affiliate Broker
History: None

The Complainant is the buyer. The Respondent is the buyer’s agent.

Complainant signed an Exclusive Buyer Representation Agreement with Respondent on April 25, 2022. Complainant alleges that Respondent treated them rudely, unprofessionally, and did not represent their interests. Complainant states they entered into a home purchase agreement through another agent and without notifying Respondent. Complainants’ chief complaint is that a finance company notified Respondent of Complainants purchase agreement and that Respondent was seeking damages, through their attorney, to recover from Complainants alleged breach of the exclusive buyer representation agreement.

Respondent provided a clear timeline of events, stating Respondent had worked with Complainant to see properties, to set them up to view MLS listings that matched their search criteria, and Respondent was helping Complainant get pre-approved for a home loan.

Whether or not a breach of privacy occurred, Respondent is not responsible for information given by the financial company making Respondent aware that Complainant was in breach of the exclusive representation agreement. The Respondent exercised reasonable skill and did not violate any TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

17. 2022031941
Opened: 8/8/2022
First Licensed: 11/10/2015
Expires: 11/9/2023
Type of License: Affiliate Broker

History: None

Complainant is a buyer. Respondent is the listing agent.

Complainant alleges Respondent misrepresented property by describing the property as “level, partially wooded, and sloped”. Complainant attended a virtual tour of the property via their buyer’s agent and subsequently made an offer to purchase on May 21, 2022, with closing to occur on or before June 23, 2022. On June 12, 2022, Complainant visited the property “in person” and on June 16, 2022, gave notice via email that they would not go through with the purchase.

Complainant states the only level land was located where the house sits with “steep grade drop offs on multiple sides and unusable land”. In an email from Complainant to their Buyer’s Agent, Complainant states that the Buyer’s Agent described the property to Complainant as having “a long, steep driveway”.

There is no evidence that Respondent misled Complainant in any way. The Complainant made an offer to purchase without having seen the property and then visited the property “in person” after the inspection timeline had passed. Respondent described the property as “level, partially wooded, and sloped”. Complainant described the property as mountain side, unusable land that is dangerous for children to play outside unsupervised.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

18. **2022026151**
Opened: 8/8/2022
First Licensed: 10/27/2017
Expires: 10/26/2023
Type of License: Real Estate Firm
History: None

Complainant is a renter. Respondent is a Real Estate Firm.

Complainant alleges that Respondent owes them money and is in breach of contract.

Respondent states that Complainant was refunded the deposit minus cost to repair damages caused by Complainant on June 20, 2022, in the amount of \$2,813.91. Respondent provided a copy of the lease agreement, before and after photos depicting damage to the property while in control of Complainant, an itemized list of repair costs, and ledger showing the deposit refund to Complainant.

Counsel’s opinion is that Respondent did not violate TREC regulations. Respondent accounted for the amount of the deposit refund to Complainant. Counsel recommends closing the complaint and suggests Complainant seek relief through the civil process should Complainant feel there is a discrepancy in the amount of money returned from Respondent.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2022024721
Opened: 8/15/2022
First Licensed: 9/17/2008
Expires: 3/15/2024
Type of License: Principal Broker
History: None

Respondent is a licensed broker and listing agent. Complainant is a neighbor.

Respondent listed for sale Respondent and spouse's personal home. Respondent's spouse sent a text message to the Complainant's spouse stating they had passed on a good offer from a Spanish family because they like us. Respondent's spouse was acquainted with the Complainant's spouse because he was a neighbor. Respondent's spouse is not a TREC licensee.

Respondent states that it does not condone its spouse's text message and the race and/or ethnicity of the person making the offer that was "passed on" was not a factor in the decision to accept a different offer. Respondent states they accepted the offer they felt most likely to proceed to a successful closing.

Counsel's opinion is that Respondent did not violate any part of the *Tennessee Real Estate Broker License Act of 1973*.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

20. 2022030931
Opened: 8/15/2022
First Licensed: 11/24/2014
Expires: 11/23/2024
Type of License: Affiliate Broker
History: None

Counsel has reviewed the Complaint which involves the Contractors Board and has nothing to do with TREC.

Recommendation: Transfer Complaint to Contractors Board.

Commission Decision: The Commission accepted counsel's recommendation.

21. 2022031921

Opened: 8/15/2022
First Licensed: 6/21/2016
Expires: 6/20/2024
Type of License: Affiliate Broker
History: None

Complainant is a buyer. Respondent is the Complainant's agent.

Complainant alleges Respondent failed to inform them that the property was unusable. The property was described as "level, partially wooded, and sloped". Complainant attended a virtual tour of the property conducted by Respondent. Complainant subsequently made an offer to purchase on May 21, 2022, with closing to occur on or before June 23, 2022. On June 12, 2022, Complainant visited the property "in person" and on June 16, 2022, gave notice via email that they would not go through with the purchase.

Complainant states the only level land was located where the house sits with "steep grade drop offs on multiple sides and unusable land". In an email from Complainant to Respondent, Complainant states that Respondent described the property to Complainant as having "a long, steep driveway".

There is no evidence that Respondent misled Complainant in any way. The Complainant made an offer to purchase without having seen the property and then visited the property "in person" after the inspection timeline had passed. Respondent states when she was virtually showing the property to Complainant that she told them she would have to change shoes because the steepness of the property to which the Complainant stated there was no need because they would be using ATVs to get around the property. Respondent stated she showed the steepness of the property by continuing to live stream with Complainant as she drove the driveway. Further, Respondent stated that usability is subjective, and the property did have level land in places suitable for gardening as the Complainant had requested. Complainant described the property as mountain side, unusable land that is dangerous for children to play outside unsupervised. In the offer, Complainant signed acknowledging that the Broker makes no representations as to the suitability of the land.

Counsel's opinion is that Respondent acted ethically and did not commit any violation of TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

22. **2022032091**
Opened: 8/15/2022
First Licensed: 1/24/2019
Expires: 1/23/2023
Type of License: Affiliate Broker
History: None

Complainant is the seller. Respondent is the buyer's agent.

Complainant says the purchase contract was fully executed on June 27, 2022, with property inspection to be done within the first seven (7) days. Before the inspection could be done, the buyer backed out stating that the roof needed replacing and the air conditioning was faulty. Complainant further states that Respondent was in possession of \$3,500 in earnest money that should be returned to the seller.

Respondent states the purchase contract was signed prior to the property disclosures being sent to the buyer. Respondent states that once buyer received the property disclosures, he decided to back out of the contract on June 30, 2022, citing the unknown age of the heat pump and the age of the roof. Respondent states she did not have in her possession or touch the earnest money for this transaction. Respondent states that she does not hold earnest money for any client and in this instance the earnest money would have been wired from the buyer's bank in Pennsylvania to the title company. The contract provided that the earnest money would be paid within 3 days of the executed contract. The contract was terminated by the buyer within the inspection period and the earnest money was not paid.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

23. 2022028731
Opened: 8/15/2022
First Licensed: 3/13/2015
Expires: 3/12/2023
Type of License: Real Estate Firm
History: None

Complainant is the buyer. Respondent is a real estate firm.

Complainant states they have been waiting since July 8, 2021, for return of the \$6,100 of earnest money. Complainant states Respondent advised they were within their rights to terminate the purchase agreement. Complainant alleges that Respondent did not notify sellers agent of the termination properly.

Respondent states the complaint involves an earnest money dispute between the parties to a transaction which terminated as a result of an appraisal which did not equal or exceed the purchase price. Complainant believes that the earnest money should be returned to them; however, the sellers disagree and refuse to sign the RF 481, The Mutual Release of Purchase and Sale Agreement and Disbursement of Earnest Money, indicating that the earnest money should be returned to the Complainant. Since the Complainant and the sellers are apparently at an impasse regarding the Release of the earnest money, the title company will not release the earnest money.

Respondent states the appraisal that was \$40,000 under the purchase price was received on August 18, 2021, at which time Respondent notified sellers agent that the appraisal did not equal or exceed

the purchase price. Complainant and sellers negotiated but were unable to reach a purchase agreement. On Sunday August 22, 2021, Complainant made the decision to terminate the purchase agreement. On Monday August 23, 2021, Respondent completed an Earnest Money Release with earnest money being distributed back to Complainant. The sellers refused to sign the Release. Respondent provided information to Complainant on several occasions outlining how to contact the title company to request the interpleader process to begin or to retain their own attorney. Complainant requested and was provided by the Respondent with copies of all the executed documents pertaining to the transaction on three separate occasions.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

24. 2022031661
Opened: 8/15/2022
First Licensed: 9/29/2009
Expires: 9/28/2023
Type of License: Real Estate Firm
History: None

Complainant is a purchaser of a timeshare. Respondent is a real estate firm selling timeshares.

Complainant claims they purchased points that can be used to secure vacation time and they were promised exclusivity but later found that others can stay at the resorts without owning a timeshare interest. Complainant states they were told they could refinance their purchase, but Complainant states no bank would refinance because they had no collateral to secure the loan. Complainant states they returned to the resort for their free week on December 27, 2019 but had to upgrade because their points were not enough to secure the property. Complainant states they felt pressured into opening one of "their" credit cards.

Respondent states Complainant purchased their timeshare on November 15, 2019, by purchasing 100,000 points per anum. On December 20, 2019, Complainant made a reservation securing a timeshare in Tennessee from December 26, 2019, to December 30, 2019. Complainant was invited to and did attend the Respondent's timeshare presentation on December 27, 2019, at which time Complainant purchased an additional 100,000 points per anum. Complainant had the benefits, rights, and obligations of each purchase described by the sales associate and the contract documentation and Member Guide provided to Complainant provided the same disclosures. The Member Guide provided to Complainant shows the number of points required to secure reservations at Respondents Resorts broken down by resort, season, unit type, unit size, and day of the week. All reservations are subject to availability and Timeshare owners are encouraged to make reservations as far in advance as possible. Respondent states the resorts are not for the exclusive use of owners and Complainant was not advised otherwise. Respondent states they do not advise prospective purchasers regarding the likelihood of securing alternative financing. Further, Respondent indicates that Complainant executed an Owner Clarification Form acknowledging that "If you finance your purchase, refinancing options for Timeshare Interests are

limited. You are not relying on any promise or expectation of refinancing your loan in the future. Many lending institutions do not offer refinancing options for Timeshare Interests.”

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

25. 2022033251
Opened: 8/15/2022
First Licensed: 6/18/2020
Expires: 6/17/2024
Type of License: Real Estate Firm
History: None

Complainant leased a dwelling. Respondent is the property management firm.

Complainant signed a lease and paid a deposit on August 8, 2022. Complainant says when the property was viewed that the lights were not on, and the property was “super filthy”. Complainant states the maintenance company was called who said the air conditioning and hot water were not working. Complainant says the paint was of poor quality and the lawn was not cut. Complainant states the contractor said the work would be completed on the morning of August 9, 2022. Complainant says the property was not “move in ready” as advertised. Complainant says the contractor services were expedited, however “it was a rushed job”, with a ball of paper towels remaining in the sink. When no satisfaction was received from Respondent, Complainant reached out to the landlord who did not offer a deposit refund but instead offered to deduct rent or allow Complainant to move into one of their other properties.

Respondent states Complainant viewed the property on August 3, 2022, and signed lease on August 8, 2022. Complainant and property manager did a walkthrough of the property on August 8, 2022, at which time Complainant gave a list of things to do to the property. Respondent had contractor come and complete all the work on August 9, 2022, except for the HVAC because the contractor needed to order parts.

Counsel’s opinion is that Respondent did not violate any TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

26. 2022027971
Opened: 8/15/2022
First Licensed: 11/13/2007
Expires: 11/12/2023
Type of License: Affiliate Broker
History: None

Complainant is a home tenant. Respondent is the listing agent.

On June 13, 2022, Respondent listed the house for sale where Complainant resided. Complainant states they were going buy the home, where they had been living for years, from their nephew, the homeowner. Complainant states that Respondent and homeowner told them to be out of the house on June 20, 2022, from 10:00 a.m. to 6:00 p.m. Complainant has 5 boys with one being disabled in that he has an immune problem and can't be in the sun for prolonged periods of time and is home schooled. Complainant states Respondent was very unprofessional and told Complainant they had no choice but to leave. Complainant said they allowed Respondent to take pictures of the house and while there, Respondent threatened to have them put in jail if they took things out of the house such as the microwave, dishwasher, and refrigerator. Complainant says they have known Respondent for almost their entire life and Respondent mentioned Complainant's 6-year-old's biological father which upset the 6-year-old to the point that he had a seizure and EMS had to be called. Shortly after the incident with the 6-year-old the house was taken off the market. Complainant states they made a full price purchase offer 2 weeks before Respondent put the house on the market.

Respondent states the property owner states that the Complainant text him in May saying Complainant would be moving out, so property owner reached out to Respondent. On June 13, 2022, Respondent listed property owners house as "coming soon". Respondent placed a sign in the yard after property owner notified Complainant that the house was going on the market. Respondent states they have known Complainant for some time as Complainant is the former sibling-in-law to the property owner who is the nephew to the Respondent. Respondent states they made a call to Complainant on or about June 14, 2022, to let Complainant know they would probably get a lot of showings so Complainant could decide for the children. Complainant agreed to allow Respondent to take photos on June 17, 2022. While there, Complainant said they were taking the toilets that they had bought, and Respondent told Complainant that anything attached normally stays with the house. Respondent denies telling Complainant they would go to jail. Respondent states that Complainant was never told to be out of the house all day on June 20 but was provided the schedule of showings. Respondent later text Complainant to inform that Respondent could be there at 9:45 a.m. for the showings on June 20, 2022. Complainant responded by text, "there will be no showings Monday or any other day at this point". Respondent then contacted the property owner who instructed Respondent to take the listing off the market and he would seek legal advice to see what he needed to do.

Respondent states a conversation ensued on June 17, 2022, and Respondent asked about the biological dad but never used his name. Respondent denies any responsibility for the child having a seizure.

Counsel has reviewed copies of text messages between Complainant and Respondent. It is Counsel's opinion that Respondent acted ethically and within the statutes enforceable by TREC.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

27. 2022027871
Opened: 8/2/2022
First Licensed: 3/24/1990
Expires: 9/22/2024
Type of License: Real Estate Firm
History: None

Complainant is a home tenant. Respondent is the listing real estate firm.

On June 13, 2022, Respondent listed the house for sale where Complainant resided. Complainant states they were going buy the home, where they had been living for years, from their nephew, the homeowner. Complainant states that Respondent and homeowner told them to be out of the house on June 20, 2022, from 10:00 a.m. to 6:00 p.m. Complainant has 5 boys with one being disabled in that he has an immune problem and can't be in the sun for prolonged periods of time and is home schooled. Complainant states Respondent was very unprofessional and told Complainant they had no choice but to leave. Complainant said they allowed Respondent to take pictures of the house and while there, Respondent threatened to have them put in jail if they took things out of the house such as the microwave, dishwasher, and refrigerator. Complainant says they have known Respondent for almost their entire life and Respondent mentioned Complainant's 6-year-old's biological father which upset the 6-year-old to the point that he had a seizure and EMS had to be called. Shortly after the incident with the 6-year-old the house was taken off the market. Complainant states they made a full price purchase offer 2 weeks before Respondent put the house on the market.

Respondent states the property owner states that the Complainant text him in May saying Complainant would be moving out, so property owner reached out to Respondent. On June 13, 2022, Respondent listed property owners house as "coming soon". Respondent placed a sign in the yard after property owner notified Complainant that the house was going on the market. Respondent states they have known Complainant for some time as Complainant is the former sibling-in-law to the property owner who is the nephew to the Respondent. Respondent states they made a call to Complainant on or about June 14, 2022, to let Complainant know they would probably get a lot of showings so Complainant could decide for the children. Complainant agreed to allow Respondent to take photos on June 17, 2022. While there, Complainant said they were taking the toilets that they had bought, and Respondent told Complainant that anything attached normally stays with the house. Respondent denies telling Complainant they would go to jail. Respondent states that Complainant was never told to be out of the house all day on June 20 but was provided the schedule of showings. Respondent later text Complainant to inform that Respondent could be there at 9:45 a.m. for the showings on June 20, 2022. Complainant responded by text, "there will be no showings Monday or any other day at this point". Respondent then contacted the property owner who instructed Respondent to take the listing off the market and he would seek legal advice to see what he needed to do.

Respondent states a conversation ensued on June 17, 2022, and Respondent asked about the biological dad but never used his name. Respondent denies any responsibility for the child having a seizure.

Counsel has reviewed copies of text messages between Complainant and Respondent. It is Counsel's opinion that Respondent acted ethically and within the statutes enforceable by TREC.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

28. 2022026961

Opened: 8/2/2022

First Licensed: 9/6/2006

Expires: 10/12/2023

Type of License: Affiliate Broker

History: None

Complainant and Respondent are both TREC licensees who work in the same firm.

Complainant states the following: Respondent called asking that Complainant assist in writing an offer for the buyers because the seller was a friend, and the buyers are family members. Respondent asked Complainant to do it for a flat fee of \$500. Complainant declined and asked for a percentage. Complainant and Respondent called their broker who suggested that Complainant receive \$1000 just to write the offer and Respondent could do the transaction from that point. Complainant went to the MLS and saw that the disclosed commission to buyer's agent was 3%. Complainant's brokerage and seller paid only \$1000 when there was no written agreement. Complainant says it fully represented Buyer, has a signed Compensation Agreement, and an Exclusive Buyer Representation Agreement. Complainant alleges Respondent immediately accepted the offer once submitted even though other offers were also submitted and that Respondent wrongfully abused Complainant's services.

Respondent states the following: Respondent began working with the Buyers on November 25, 2021 and have an Exclusive Buyer Representation Agreement dated November 26, 2021. Respondent states because of the relationship with both sellers and buyers, Respondent felt it prudent to have another agent prepare and submit the family members offer. Once the family members, whom Respondent had an agency relationship, decided to make an offer on the property, Complainant and Respondent entered into a verbal agreement to whereby Complainant would write the offer for the agreed to compensation of \$1,000.

The Propy Web 3 platform was used which allowed the seller and Respondent to receive a text message notification and an email for all offers submitted.

It is Counsel's opinion that Respondent did not violate any TREC enforceable statute or regulation. Further, any dispute as to contractual payment obligations may be handled through retained private counsel and the civil process.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

29. 2022028621
Opened: 8/2/2022
Unlicensed
History: None

Complainant is an attorney responding on behalf of TREC licensee. Respondent is unlicensed.

Complainant states the Respondent represents themselves to be brokers of real estate in Tennessee however they cannot be located in the verify.tn.gov database. Complainant states Respondent is not a registered entity in Tennessee. Respondent's name used in advertising a property located in Tennessee includes the words "Real Estate".

Respondent states that by Tennessee real estate laws, if a party has equitable interest in a property, they are able to assign it to another party. Respondent states they had equitable interest in the property via an assignment contract and earnest money deposited with a title company. Respondent states they never claimed to be brokers, real estate agents, or that they owned the property. Respondent claims Complainant was on their private "cash buyers" list and that Complainant misrepresented themselves as a cash buyer on a Facebook group. Respondent asserts that a private email, phone conversation, or text message between two mutually consenting individuals does not constitute advertising per the law. Respondent states the company name, "... Real Estate" is a DBA.

Counsel's opinion is that Respondent used the name, "... Real Estate" in the marketing of a home for sale in Tennessee when the Respondent did not have a license to sell real estate in Tennessee. Further, Counsel's opinion is that use of the DBA, "... Real Estate" in any media format used to sell real estate would cause the general public to believe they are offering real estate brokerage services.

Recommendation: \$1,000.00 civil penalty

Commission Decision: The Commission accepted counsel's recommendation.

30. 2022031961
Opened: 8/2/2022
First Licensed: 11/5/2018
Expires: 11/4/2022
Type of License: Affiliate Broker
History: None

Complainant is a buyer. Respondent is the listing agent.

Complainant states the home they bought was in need of repairs and foundation repairs. Complainant states that the repair work was not under warranty as the Respondent had indicated. Complainant says the Respondents spouse actually completed the work and not the water proofing company.

Respondent states Complainant signed the Residential Property Condition Disclosure on January 18, 2022, that was marked that the sellers were aware of defects/malfunctions with the ceilings, floors, exterior walls, and there they were aware of settling issues with the soil around the home. Respondent says on February 3, 2022, as minor leak was observed in the mechanical room in the basement. Respondent states the Complainants agent was made aware of the leak and that the sellers would have the leak repaired. Respondent states repairs were made on February 11, 2022, by a roofing and water proofing company who signed a Contractor Warranty for the waterproofing of the basement mechanical room. The Complainant completed a final inspection of the home on March 21, 2022 and closed on March 22, 2022. Respondent states that while their spouse completed some repairs to the home, the spouse did not complete the waterproofing of the basement mechanical room and was not present on the day the repairs were made by the roofing and waterproofing company.

Counsel's opinion is that Respondent followed all TREC regulations and acted honestly throughout the real estate transaction.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

31. 2022033231
Opened: 8/2/2022
First Licensed: 11/20/20
Expires: 11/19/2022
Type of License: Affiliate Broker
History: None

Complainant is a property owner. Respondent is a TREC licensee.

Complainant states that Complainant and Respondent owned property together. Complainant states Respondent would not agree to settle out of court and a forced sale was made on the co-owned house and land. Complainant states that Respondent was not to be involved in the sale. Respondent states Complainant made an adjoining landowner aware of the property and referred the adjoining landowner to the broker that Respondent works under. Complainant states the adjoining landowner purchased the property. Complainant states Respondent's action in contacting the adjoining landowner and benefiting from the sale of the property was in violation of a court order.

Respondent states the Agreed Order only specified the listing agent and that Respondent was not to be on the property except as agreed upon. Respondent states that no commission was paid to the Respondent and denies committing any illegal act.

Counsel reviewed a copy of the Approved Order which specifies the listing agent. Counsel's opinion is that Respondent did not violate any TREC statute or regulation.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

32. 2022033471
Opened: 8/2/2022
First Licensed: 4/9/1990
Expires: 2/28/2019 (E&O Suspension)
Type of License: Principal Broker
History: None

Complainant alleges Respondent is practicing real estate without a license and is not working for a firm with proper licensure to do property management.

Respondent states it serves as a property manager for a homeowner's association to assist with maintenance of common areas; collection of annual assessments; enforcement of governing documents; and general financial management. Respondent states it does not solicit, negotiate, or attempt to solicit or negotiate the listing, sale, purchase, exchange, lease, or option to buy, sell, rent, or exchange for any real estate.

This matter is outside the regulatory authority of TREC. Counsel recommends closure.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

33. 2022033481
Opened: 8/2/2022
Unlicensed
History: None

Complainant alleges Respondent is practicing real estate without a license and is not working for a firm with proper licensure to do property management.

Respondent states it serves as a property manager for a homeowner's association to assist with maintenance of common areas; collection of annual assessments; enforcement of governing documents; and general financial management. Respondent states it does not solicit, negotiate, or attempt to solicit or negotiate the listing, sale, purchase, exchange, lease, or option to buy, sell, rent, or exchange for any real estate.

This matter is outside the regulatory authority of TREC. Counsel recommends closure.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

34. 2022033491
Opened: 8/2/2022
Unlicensed
History: None

Complainant alleges Respondent is practicing real estate without a license and is not working for a firm with proper licensure to do property management.

Respondent states it serves as a property manager for a homeowner's association to assist with maintenance of common areas; collection of annual assessments; enforcement of governing documents; and general financial management. Respondent states it does not solicit, negotiate, or attempt to solicit or negotiate the listing, sale, purchase, exchange, lease, or option to buy, sell, rent, or exchange for any real estate.

This matter is outside the regulatory authority of TREC. Counsel recommends closure.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

35. 2022034371
Opened: 8/2/2022
First Licensed: 2/15/2022
Expires: 2/14/2024
Type of License: Affiliate Broker
History: None

Complainant states Respondent, a TREC licensee, sent an email to Complainant with the subject heading "Any interest in us buying your house before the auction?" and the body of the email asking if Complainant had an interest in selling its home. Complainant states it feels the email from Respondent is unethical, possibly criminal, and meant to be predatory to vulnerable populations.

Respondent states it is hired by a client to try to acquire off market properties. Respondent states it acquired a list containing the Complainants address. Complainant states it asked Complainant in the email, "Any chance you might be interested in selling your house?"

Counsel's opinion is that Respondent did not violate any statute or regulation with respect to the email sent to Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

36. 2022033091
Opened: 8/30/2022

First Licensed: 2/25/2014
Expires: 2/24/2024
Type of License: Principal Broker
History: 2020 Consent Order for Escrow Account Earnest Money violation

Complainant is a property owner. Respondent is a TREC licensee.

Complainant states filed a lawsuit against Respondent for attempting to cloud the title of Complainant's home. Complainant alleges that Respondent filed a lien against Complainant's home on June 16, 2022, in the amount of \$17,300.00 for labor and material to finish the basement. Complainant states the lien says the first day lienor provided labor was on April 5, 2022. Complainant says it has never contracted with Respondent and the lien is fraudulent. Complainant alleges a conspiracy between Respondent and another individual to in that the lien filed by the Respondent was a scheme to recover real estate sales commission that Respondent forfeited during the sale of a home. Complainant alleges that Respondent also forged a letter from a title company on October 18, 2021, stating that Complainant was going to give all the proceeds from the sale of property to another individual.

Respondent states it has not attempted to cloud the title to the property. Respondent states the lien was placed on the property for \$17,300.00 due to non-payment of money that Respondent loaned for repairs and refinishing the home. Respondent states the loan took place many months after closing and is not related to a real estate commission. Respondent states it forfeited the sales commission because the buyer was short \$20,000.00 plus in closing costs and the closing would not have occurred on that day absent giving up the sales commission. Respondent denies forging the letter from the title company.

Given the ongoing litigation between Complainant and Respondent, Counsel recommends placing the complaint in Litigation Monitoring

Recommendation: Place in Litigation Monitoring

Commission Decision: The Commission accepted counsel's recommendation.

37. 2022033241
Opened: 8/30/2022
First Licensed: 6/7/2004
Expires: 8/19/2024
Type of License: Principal Broker
History: None

Complainant is a buyer. Respondent is the listing agent.

Complainant alleges the belief that Respondent is not presenting offers to the seller. Complainant states Respondent wanted proof of funds, an earnest money deposit, and less contingencies before showing the offer. Complainant states the offer was rewritten and accepted. Complainant states a closing date extension was requested because delays in soil samples, appraisals, and building

supplies made the original closing date impossible to meet. Complainant states the Respondent responded to the request to extend the closing date in less than one minute stating they would not extend. Because of the short time span, Complainant believes Respondent had time to confer with the seller.

Respondent states on July 20, 2022, they expressed to the buyer's agent that after conferring, the seller rejected the offer. Respondent states the buyer's agent expressed that changes would be made and an offer resubmitted that week. Respondent stated, "So, I didn't ask the seller to sign a rejection." Respondent states on July 22, 2022, the buyer's agent notified Respondent that their mother-in-law had passed, and they would not be available until after the funeral. Respondent states they texted buyer's agent reminding buyer's agent that Respondent needed to talk to the lender and to get a pre-qualification letter. Respondent states the second offer was submitted on July 27, 2022. Respondent states the offers were communicated to the seller immediately upon receipt.

Respondent admitted a request was not made to seller to sign an offer rejection. Counsel's recommendation is that Respondent be assessed a civil penalty of \$500.00 and re-training for violation of Tenn. Comp. R. & Regs. 1260-02-.08. OFFERS TO PURCHASE, which states "A broker or affiliate broker promptly shall tender every written offer to purchase or sell obtained on a property until a contract is signed by all parties. Upon obtaining a proper acceptance of an offer to purchase, or any counteroffer, a broker or affiliate broker promptly shall deliver true executed copies of same, signed by the seller, to both the purchaser and the seller. Brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase. In the event an offer is rejected, the broker or affiliate broker shall request the seller to note the rejection on the offer and return the same to the offeror or the offeror's agent."

Recommendation: \$500.00 Civil Penalty and re-training concerning Offers to Purchase.

Commission Decision: The Commission voted to assess a \$1,000.00 civil penalty and require Respondent complete four (4) hours in Contracts within one hundred eighty (180) days of the execution of the Consent Order and that the continuing education will be above and beyond what is required for renewal.

**38. 2022033511
Opened: 8/30/2022
First Licensed: 2/5/2020
Expires: 2/4/2024
Type of License: Affiliate Broker
History: None**

Complainant is a seller. Respondent is the buyer's agent.

Complainant states on July 26, 2022, entered into a contract to sell their home. Complainant states the buyer conducted a home inspection on August 2, 2022, and they agreed to reduce the home price because the Complainant was scheduled to close on a house on August 29, 2022. On August

9, 2022, the seller's agent informed Complainant that the buyers may be submitting an amendment to change to a cash close. Complainant stated they had inquired multiple times as to why an appraisal had not been scheduled. Complainant states their agent informed them that the buyer's agent stated that financing was a backup plan and they buyers intended to close on August 29, 2022, with or without financing. Complainant alleges that Respondent was aware of the seller's intent to proceed with a cash sale and a sale of home contingency. Complainant alleges Respondent used the information they were needing to close on another home as leverage to force them to comply with a closing would most likely be delayed due to the contingency.

Respondent states the Complainant chose to not sign the amendment to move to a cash sale, so they continued with financing the purchase per the signed contract. Respondent states that after the home inspection there was a negotiated price reduction with the Complainant making a counteroffer. Respondent denies that it is not possible the Respondent sent an offer knowing there would be a sale contingency because the buyers did not place their home for sale until after this contract was bound.

Counsel spoke to Respondent on November 28, 2022. Respondent informed Counsel that the sale closed on August 29, 2022, per the contract. Counsel's opinion is Respondent acted ethically and upholding TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2022034041
Opened: 8/30/2022
First Licensed: 7/19/2017
Expires: 7/18/2023
Type of License: Affiliate Broker
History: None

Complainant is a homeowner. Respondent is a TREC licensee.

Complainant states Respondent started contacting them about their property in July 2020. Complainant says the property is part of an ongoing civil and criminal case. Complainant states they believe Respondent was sent by the defendant or the defendant attorney to try to get the property out of the Complainants possession. Complainant states they told Respondent they were not interested in selling and they would not talk to Respondent because Respondent is friends with the defendant's father and two witnesses. Complainant says their attorney sent Respondent a cease-and-desist letter telling Respondent to stop contacting them. Complainant says they sent another agent to trespass on their property and harass them with calls and text. Respondent sent another agent to harass Complainant and we continued to tell them it is not for sale.

Respondent states a friend who lives in the same community had asked Respondent to inquire as to whether the subject new construction home was for sale. Respondent states they asked a mutual connection (a teacher who taught the Complainants children) to ask Complainant to contact

Respondent. Complainant initiated text on July 27, 2020. Respondent says they were given permission to walk the property but never did because Complainant stated it would be a long time before they could sell. Respondent states they never set foot on the property and is not friends with the Plaintiffs, Defendants, or their family members. Respondent states that until this Complaint came to light, they did not know other agents in the firm, including Respondents Broker, had clients who were interested in purchasing the house.

Respondents Broker states that a client was interested in the partially constructed home and Broker went to courthouse to find out who owned the property. Respondent knocked on the door of the Complainants residence and left a business card.

Counsel has reviewed text messages between Respondent and Complainant. Complainant text Respondent first on July 27, 2020. Counsel notes that Complainant made numerous comments about selling the house and gave Respondent permission to walk around the house. Then on July 30, 2020, Complainant texted Respondent wanting to know if a particular, named person had Respondent reach out to Complainant about the house. The Respondent asked questions by text of the Complainant to ascertain who was speaking. The Complainant stated that the Respondent and Broker walked the property and wanted to know who sent them. Respondent stated "... I think you have me confused with someone else. I text you guys about a year ago about looking at it. And y'all thought I was friends with the builders. Which I can assure you I am not...". Respondent went on to text "Someone did ask me about the property and that's when I called you guys. Or text you. It's been so long I can't remember". Counsel also reviewed voice messages provided by Complainant of several real estate agents who were inquiring about the house as well as another other text messages between Complainant and another real estate agent. Counsel's opinion is that all the evidence suggests that Respondent acted ethically, politely, and within TREC regulations as to dealings with Complainant. Further, it is Counsels opinion that all other mentioned agents acted ethically, politely, and within TREC regulations as to their dealings with Complainant and no evidence suggests any conspiracy existed between Respondent and other agents designed to compel Complainant to relinquish custody of the property. This case is without any merit.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

40. 2022034101
Opened: 8/30/2022
First Licensed: 9/12/2003
Expires: 3/4/2024
Type of License: Real Estate Broker
History: None

Complainant claims to have a property interest in property that was listed by Respondent.

Complainant states the property was owned by a family member who passed away in December of 2020 and is now owned by many family members. Complainant states one family member contacted Respondent to list the property without permission.

Respondent states they were contacted about listing a property acquired because his father had died. Respondent says the man says he owns the house along with an uncle. Respondent stated they observed the tax record showed the first and last name being the same as the person claiming ownership. Further, Respondent was provided an affidavit of heirship provided by the man's attorney and recorded on May 27, 2022. The listing was signed by both parties on July 29, 2022, and July 30, 2022, respectively. Respondent states the property went under contract on August 14, 2022, for a requested cash closing on August 19, 2022. Respondent states on August 17, 2022, Respondent received a call from a person who identified themselves as a name that does not match the Complainant's name and stating they too have an ownership interest in the property. Respondent states the man stated a complaint would be lodged with the Real Estate Commission. Respondent stated a call was immediately made to the title company handling the closing advising them of another person claiming ownership in the property. Respondent states the title company called the uncle advising him that the closing would be on hold until the issue is resolved.

Counsel notes that the Complainant made no allegation that Respondent violated any provision of the *Tennessee Real Estate Broker License Act of 1973*. Counsel opines that Respondent acted ethically, immediately notified the title company that another person is claiming ownership of the property and did not violate any provision of the *Tennessee Real Estate Broker License Act of 1973*.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2022034671
Opened: 8/30/2022
First Licensed: 3/9/2020
Expires: 3/8/2024
Type of License: Affiliate Broker
History: None

Complainant is a buyer. Respondent is the listing agent.

Complainant states home was purchased with no contingencies or inspections. Respondent says their only request was that all personal items be removed from the property as stated in Addendum 1 to the Purchase and Sale Agreement. Complainant states they texted Respondent on numerous occasions asking that Respondent come by the property and see the things left behind. Complainant states Respondent did not come by the property. Complainant also states that Respondent said they had a trailer and would remove any items left.

Respondent states the house went under contract with Complainant on July 11, 2022 and closed on July 29, 2022. Respondent provided copies of text messages between Complainant and Respondent. Complainant asked Respondent on July 29, 2020, to let Complainant know about items in the crawl space. Respondent replied that Respondent reached out to the seller and seller was not aware there was anything in the crawlspace. Complainant texted Respondent indicating

that Respondent said they had a trailer and would remove anything left. Respondent stated they did not remember saying that but instead remembered telling seller they would help remove the playhouse if needed but the playhouse was removed early. Respondent stated they would reach out to the sellers; however, the Complainant declined the offer and did not want the sellers around.

Counsel's opinion is that Respondent has no control over the seller's action but was willing to ask the sellers to remove the remaining personal items. Counsel's opinion is that Respondent acted ethically and within the *Tennessee Real Broker License Act of 1973*.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2022035361

Opened: 8/30/2022

First Licensed: 8/3/2021

Expires: 8/2/2023

Type of License: Affiliate Broker

History: None

Complainant is an heir to their father's property. Respondent is the listing agent.

Complainant states their father died intestate leaving Complainant as one heir. Complainant states the property went into probate in August of 2022 and Complainant was informed by their attorney on August 24, 2022, that the property had been listed for sale. Complainant states their attorney contacted Respondent to inquire as to how the property was listed for sale. Complainant states Respondent is Complainant's stepmother's niece. Complainant alleges that the stepmother was not the sole owner and Complainant states the property was listed below value purposefully.

Respondent states they received a call from Complainant's attorney on August 24, 2022, stating the Respondent had no right to list the property without the owner's signatures. Respondent states they were confused but took the listing off the market on August 24, 2022, after discussing the matter with the aunt and Broker. Respondent states they asked the aunt for documentation that the aunt was in the executor of the estate.

Counsel's opinion is Respondent did not violate any *Tennessee Real Estate Broker License Act of 1973* statute and once Respondent received information that there may be other rightful heirs to the property, Respondent removed the listing.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2022029331

Opened: 8/30/2022

First Licensed: 9/29/2020

Expires: 9/28/2024
Type of License: Real Estate Firm
History: None

Complainant wanted to list property. Respondent is the Broker.

Complainant alleged Respondent thinks they can terminate a contract between a real estate agent and Complainant for any reason. Complainant states, "... like he is God or something. Nope, it's a binding agreement, they need to list my land and stop trying to play a con, a scam, or whatever they are up to."

Respondent states the agent is a new agent who responded to a lead from Complainant. Respondent states the agent agreed to list Complainant's property. Respondent states the agent sent Complainant listing documents for signature. Respondent states the agent felt they were doing the right thing but after receiving more information on the specifics of the property the agent didn't feel experienced enough to represent the Complainant properly. Respondent states the agent was feeling uneasy from some of the Complainant's comments including wanting to meet the agent at the property and saying that it was a very remote area, and that the agent would not have cell service. Respondent states they spoke to Complainant multiple times and tried to explain the reasons to replace the agent with another agent. Respondent stated they explained to Complainant that Respondent had the right to assign another agent to the agreement. Respondent states that Complainant was adamant that the agent was "his agent" and that I didn't know what I was talking about. Respondent states after many failed attempts to try to reason with the Complainant, Respondent sent Complainant a release and explained that Complainant was free to list with another company. Respondent states the Complainant was verbally abusive and refused to sign the release. Respondent states they instructed the agent to not respond to any further attempts of communication from Complainant.

Counsel's opinion is that Respondent acted ethically and within all TREC regulation as it pertains to the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

44. 2022028961
Opened: 9/6/2022
First Licensed: 1/28/2013
Expires: 1/27/2023
Type of License: Affiliate Broker
History: None

Complainant states Respondent is deceiving the public by using the wrong last name in advertising. Complainant included a yard sign real estate advertisement depicting a different last name than that which the Respondent is licensed.

Respondent's managing broker responded to the complaint on August 19, 2022, asking that the agreed citation in the amount of \$500.00 be waived against Respondent. The agreed citation to Respondent is for advertising activities in violation of TENN. COMP R. & REG. 1260-02-.12(3)(c) Any advertising which refers to an individual licensee must list that individual licensee's name as licensed with the Commission. Respondent has not signed and returned the agreed citation to the Commission nor has the Respondent submitted a notarized statement within the 30 day which will result in the Commission reviewing the complaint based solely upon the complaint allegations.

Counsel recommends Respondent be assessed a civil penalty in the amount of \$1,000.00.

Recommendation: \$1,000.00 Civil Penalty

Commission Decision: The Commission accepted counsel's recommendation.

45. 2022029881
Opened: 9/6/2022
First Licensed: 10/24/2014
Expires: 2/21/2023
Type of License: Principal Broker
History: None

Complainant states real estate agent is deceiving the public by using the wrong last name in advertising. Complainant included a yard sign real estate advertisement depicting a different last name than that which the real estate agent is licensed.

Respondent is managing broker of the real estate agent and states the agent was in the process of transferring brokerages, ordering new signs for the new brokerage which would include the correct last name, and updating TREC to include the new last name in the TREC records. Respondent was issued an agreed citation in violation of TENN. COMP R. & REG. 1260-02-.12(3)(B) All advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. The firm name must appear in letters the same size or larger than those spelling out the name of a licensee or the name of any team, group, or similar entity. The agreed citation was for \$500.00.

Respondent has failed to sign and return the citation or submit a notarized response within the 30-day period which will result in the Commission reviewing the complaint based solely upon the complaint allegations.

Counsel recommends Respondent be assessed a civil penalty in the amount of \$1,000.00.

Recommendation: \$1,000.00 Civil Penalty.

Commission Decision: The Commission accepted counsel's recommendation.

46. 2022032871

Opened: 9/6/2022
First Licensed: 1/25/2021
Expires: 1/24/2023
Type of License: Principal Broker
History: None

Complainant is a property owner. Respondent is a real estate firm.

Complainant states they have 2 properties owned by 2 different LLCs of which Complainant is the sole owner. Complainant states the 2 properties are managed by Respondent. Complainant states as of May 10, 2022, Respondent has not remitted any money to Complainant. Complainant states they have been unable to speak to anyone with authority to make changes and the lack of payment has caused a financial hardship to Complainant.

Respondent states that Complainant was paid in full in the amount of \$13,667.20 on August 8, 2022. Respondent states they called Complainant on August 15, 2022, and Complainant confirmed receipt of the payment. Respondent says the next payment is scheduled for September 8, 2022, and anticipates no further issues moving forward.

Respondent states that Complainant initially contracted with another company to handle the property management on April 20, 2021. Respondent's company later acquired the company and the Complainant's Agreements were assigned to Respondent in early 2022. Respondent states that timely payments were made to Complainant in February, March, and April of 2022. Respondent states that Complainant raised an issue that they were being paid in their personal name and not the name of Complainant's LLCs. Respondent states the issue was sent to their legal department for review and on May 5, 2022, Complainant signed a new agreement with Respondent in the name of the LLC's. Respondent states a question about handling payments and lack of a new W-9 led to a delay in their system in payment to Complainant. Respondent's representative reached out to Complainant in July 2022 and Complainant made necessary elections. Respondent states Complainant was paid in full on August 8, 2022.

Counsel's opinion is that Respondent complied with TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

47. 2022034891
Opened: 9/6/2022
First Licensed: 10/8/2018
Expires: 10/7/2024
Type of License: Affiliate Broker
History: None

Complainant is a buyer. Respondent is the selling agent.

Complainant states they contracted on February 25, 2021, to purchase a home that was to be built by a builder with an original closing date set for January 5, 2022. Complainant states that Respondent tried to make the experience intolerable so they would not go through with the deal. Complainant states the purchase was contingent upon them selling their old home. Respondent states they were told to expect a 30-day delay past the original closing date to close on their new home. Complainant states the closing was delayed eight times past the original closing date. Complainant states they sold their old home January 20, 2022, in anticipation of the February 15, 2022, closing date for the new home as outlined in the first closing date extension. Complainant states the new home closed on June 6, 2022, 152 days past the original closing date.

Respondent states the delays that occurred are out of their control. Respondent states numerous delays in building the home including delays in materials, septic delays, worker shortages, and weather affect a home build. Respondent states they deliver the messages sent by the builder to the Complainants agent. Respondent states the Complainant could have walked away from the deal. Respondent stated, "It was not a threat, but an option." Respondent stated when this happens, the home builder would refund the buyer and put the house back on the market. Respondent stated, "I fought to Keep this deal going so that it would close. There is nothing dishonest or fraudulent about any of my dealings."

Counsel's opinion is that Respondent did not control the builder or the delays that occurred in closing. Counsel's opinion is that Respondent acted within TREC regulations.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

48. 2022035011
Opened: 9/6/2022
First Licensed: 6/30/1999
Expires: 3/12/2024
Type of License: Affiliate Broker
History: None

Complainant is a buyer. Respondent is the listing agent.

Complainant states they offered \$175,000.00 for acreage and house. Complainant states the Respondent purchased the acreage and house for \$160,000.00 on February 25, 2022. Complainant alleges Respondent did not inform the sellers of Complainant's offer to purchase.

Respondent states the Complainant made an offer to purchase the home in December 2022 for \$175,000.00. Respondent states the sellers wanted more money and did not accept the offer. Respondent states other offers were received and on January 13, 2022, the sellers accepted a \$160,000.00 offer; however, the buyers backed out of the deal. Respondent states the sellers were considering taking a \$155,000.00 offer that was made previously. Respondent states they made sellers a \$160,000.00 offer that was accepted by the sellers and Respondent closed on February

25, 2022. Respondent states they asked the sellers on multiple occasions if they wanted to consider the Complainant's offer and the sellers did not.

Counsel reviewed text messages between Respondent and sellers and notes that Respondent asked sellers on multiple occasions if they wanted to consider the offer of \$175,000.00 from the Complainant. Also, a document signed by the sellers states they did not want the property to be sold to the Complainant because their father did not want to see the property belong to the Complainant.

Counsel's opinion is that Respondent acted in the best interest of the sellers and within TREC regulation.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

49. 2022035351
Opened: 9/6/2022
First Licensed: 5/28/2019
Expires: 5/27/2023
Type of License: Affiliate Broker
History: None

Complainant is an owner. Respondent is a listing agent.

Complainant states they are an owner, and the property is held in two equal trusts. Complainant states that members of the second trust conspired with Respondent to sell the house and 80 acres without the verbal or written authorization of any owner of the first trust. Complainant states Respondent encouraged buyer to move into the house. Respondent states they have started the eviction process, obtained legal counsel, and are seeking criminal and civil charges against all parties involved.

Respondent states Complainant mentioned the property as being held in two equal trusts when in fact, it is not. The property was owned by two brothers until one passed away. The property was then transferred to the widow and his brother through an Affidavit of Heirship in 2017. It is my understanding now, after having performed a title search through a title company that the property has 7 owners all of which share an equal interest in the property, that being 16.66666% as explained to Respondent from title company.

Respondent states the property survey was delayed and the seller agreed to allow the buyers to move into the house prior to closing. Respondent states the title search was completed that showed there were 7 owners after the buyers had moved into the house. Respondent states there are 2 attorneys involved and the closing is halted pending the outcome of the dispute.

Counsel's opinion is that it appears this matter is or will be in litigation, Respondent made a good faith effort to determine ownership and relied on the seller statements, seller's attorney, and

Respondents own tax record research. Counsel recommends placing the matter in litigation monitoring.

Recommendation: Litigation Monitoring

Commission Decision: The Commission accepted counsel's recommendation.

Chair Franks adjourned the meeting at 10:53am CST.