



**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 November 09, 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 November meeting agenda was submitted for approval.

The motion to approve November 09, 2022, agenda was made by Commissioner Farris and seconded by Commissioner Moffett. The motion passed unanimously.

The minutes for October 13, 2022, board meeting were submitted for approval.

Motion to approve the October 13, 2022, minutes was made by Vice-Chair Diaz and seconded by Commissioner Smith. Motion passed 8-0 with Commissioner Begley abstaining.

### **INFORMAL APPEARANCE**

Mario Gomez appeared before the commission with his Principal Broker, Kurt Steckel, to receive approval for his Affiliate Broker license.

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

Countress Brown appeared before the commission with her Principal Broker Robert Matt Lange to receive approval for her Affiliate Broker license.

Motion to approve Countress Brown was made by Commissioner Farris and seconded by Commissioner Torbett. Motion carried unanimously.

### **APPEARANCE**

Mr. Anthony Willoughby, affiliate real estate licensee, appeared before the Commission seeking “reinstatement” of his license that was voluntarily surrendered in 2018 via a signed Agreed Order. Counsel for the Commission advised Mr. Willoughby that the Commission does not have the discretion to “reinstate” a license that no longer exists, as Mr. Willoughby voluntarily surrendered this license. The Commission declined to take any action.

### **EDUCATION REPORT**

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

Motion to approve courses N1-N33 was made by Vice-Chair Diaz and seconded by Commissioner Smith. Motion passed unanimously.

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

Motion to approve instructor’s biography was made by Vice-Chair Diaz and seconded by Commissioner Torbett. Motion passed unanimously.

## **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Maxwell updated the Commission on the topics below.

- **Errors and Omissions Insurance:** Director Maxwell updated the commission on the upcoming E&O renewal period and communicated that licensees under the state policy will expire January 1,2023.
- **Distressed County Project:** Briefed the commission on the ongoing project to bring high school seniors living in the distressed county pre-licensing education at no cost to the student.

## **RULEMAKING HEARING:**

The Commission held a rulemaking hearing on two (2) sets of proposed rules. The first set of rule amendments update the disclosure of rescission rights required for every contract for sale of a time-share interval. The amendments clearly number the three (3) methods of cancellation, and include the added third method of notice, e-mail. Lastly, the proposed rule amendments now require time-share intervals to provide the disclosure of rescission rights exactly as written, which will create conspicuous attention, uniformity, and clarity to this language for all prospective consumer buyers. The second set of rule amendments update requirements and guidelines for distance education courses. The rule amendments include specifying the regulations related to printed course materials, or asynchronous courses and general additional requirements for licensees to obtain credit for distance education courses. Additionally, new guidelines for students, course providers, and course instructors are created for synchronous distance education courses.

Both sets of rules were unanimously adopted by the Commission for promulgation with minor, non-substantive changes. The rules will now proceed to the Governor's Office for post-review, then the Attorney General's Office for constitutionality and signature, the Secretary of State's Office, and then finally to the General Assembly's Joint Government Operations Committee for final approval.

## **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 1-37 with the exception of the following complaints, which were pulled for further discussion: **2022026521, 2022025101, 2022022421, 2022024401, 2022024201, 2022025351, 2022027521, 2022015741 2022018731, 2020017511.**

Motion was made by Vice-Chair Diaz and seconded by Commissioner Moffett. Motion carried unanimously.

After further discussion by the Commission on complaint 2022021061, 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 2022021061, Commissioner Torbett motioned **to accept the counsel's recommendation, and** Vice-Chair Diaz seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022022421, Commissioner Smith motioned **to issue a Letter of Instruction for Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.** Commissioner Moffett seconded the motion. Motion carried 8-1 with Commissioner Farris voting against.

After further discussion by the Commission on complaint 2022024401, Vice-Chair Diaz motioned **to issue a Letter of Instruction for Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care.** Commissioner Moffett seconded the motion. Motion carried 7-2 with Commissioner Torbett and Commissioner Guinn voting against.

After further discussion by the Commission on complaint 2022024201, Commissioner Farris motioned **to accept the counsel's recommendation.** Vice-Chair Diaz seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2022023471, Commissioner Torbett motioned **to accept counsels' recommendation.** Motion was seconded by Commissioner Moffett. Motion carried unanimously.

After further discussion by the Commission on complaint 2022025351, Commissioner Begley motioned to **issue a Consent Order with a Five Hundred**

**Dollar (\$500.00) civil penalty for failure to exercise reasonable skill and care.** Commissioner Guinn seconded a motion. Motion carried 7-2 with Chair Franks and Commissioner Moffett voting against.

After further discussion by the Commission on complaint 2022018731, 2020017511, Commissioner Torbett made the motion **to accept counsels' recommendation on both cases** Motion was seconded by Vice-Chair Diaz. Motion carried unanimously.

After further discussion by the Commission

**Dennis Gregory:  
New Complaints**

- 1. 2022026521**  
**Opened: 7/11/2022**  
**First Licensed: 2/6/1985**  
**Expires: 7/17/2024**  
**Type of License: Real Estate Broker**  
**History: None**

The Complainant is the buyer. The Respondent is the listing agent and mother to the buyer's agent.

The Complainant alleges the Respondent, and her son are "misrepresenting the lot descriptions in [location] subdivision." According to the Complainant, the Respondent is advertising the lots as being perked for a three bedroom when they lots are, in fact, only perked for two bedrooms. The Complainant says they purchased a lot in August 2020 that was supposed to be perked for four bedrooms but was only perked for three bedrooms. The Complainant and spouse were able to get out of the contract and purchase a different lot later. The Complainant used a different realtor to purchase the second lot.

The Respondent says her son was the Complainant's agent in 2020. The Complainant and spouse did not want to go with the initial lot as it did not meet the Complainant's floor plan idea. She also says that the son sent the Complainant a copy of the subdivision plat that showed the number of bedrooms each lot perked for. The Respondent alleges the complaint is born out of a recent disagreement in which the Complainant was upset she could not put vinyl siding on the rear of her home given the subdivision restrictions. The Respondent says the restrictions dictate that the homes are to be entirely brick.

There is no evidence the Respondent misrepresented the percability of the subject home in 2020 or any home since then.

**Recommendation: Close.**

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

2.     **2022026531**  
       **Opened: 7/11/2022**  
       **First Licensed: 5/3/2019**  
       **Expires: 5/2/2023**  
       **Type of License: Affiliate Broker**  
       **History: None**

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

The Complainant says the Respondent requested that a contractor come to her house two days before closing to perform an inspection. The Complainant alleges the Respondent "pretended" to be the homeowner and then refused to tell the Complainant's agent what the quote for the repairs were. According to the Complainant, she had to call the contractor in order to get the quote for the repairs. The Complainant also claims the Respondent "slandered" the homeowner (the Complainant), saying that the contractor had stated the Complainant was trying to hide problems with the home. The Complainant says the Respondent caused them to come down \$20,000 on the price as they were being "manipulated." The parties now appear to have lawyered up.

The Respondent says the buyer was willing to pay \$30,000 over the asking price and offer an appraisal gap of \$20,000 if the home inspection came back with no "major issues as described in the Property Condition Disclosure." After the initial home inspection, the buyer was not pleased with the findings due to the deteriorating crawlspace, mold, and some other issues which were not mentioned in the property disclosure. Given the findings, a request that the sellers extend the inspection period to 10 days was forwarded in order to allow a contractor time to look at the deficiencies and work up an estimate for repair. The sellers (Complainant) agreed to the extension.

After the contractor performed the review, the Respondent says that her buyer wanted to propose a price reduction based on the findings. The buyer told the Respondent that if the Complainant did not reduce the price he would ask for a cancellation of the contract and a return of the earnest money. The Respondent says she asked the Complainant's agent if they would reduce the price. The Complainant, apparently, refused to come down any further after having already reduced the price by \$20,000 for the appraisal gap. Consequently, the Respondent says the buyer weighed his options and decided to go ahead with the contract as is. As to all the other Complainant allegations, the Respondent denies each.

In the end, the buyer purchased the house at the original contract price negotiated by the parties. Therefore, counsel has a hard time seeing where the Complainant was harmed. The \$20,000 appraisal gap was part of the deal *prior* to the contractor coming out and reporting the deficiencies with the home.

**Recommendation: Close.**

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

3.     **2022026671**

**Opened: 7/11/2022**  
**First Licensed: 4/19/2013**  
**Expires: 4/4/2024**  
**Type of License: Principal Broker**  
**History: 2021 Consent Order for Advertising Violation**

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

\*The facts in #1 above are identical to those in this complaint.

**Recommendation: Close.**

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

4. **2022024931**  
**Opened: 7/11/2022**  
**First Licensed: 5/11/2017**  
**Expires: 5/10/2023**  
**Type of License: Real Estate Firm**  
**History: None**

The Complainant is the seller. The Respondent is a property management entity.

The Complainant says the Respondent managed her duplex from April 2022-May 2022. The property later sold in early May. The Complainant now claims the Respondent has failed to release final payment despite numerous calls, emails, and texts.

The Respondent's former principal broker responded. He says the Complainant and Respondent signed a management agreement in March 2022. The Respondent says that shortly after the agreement was signed, the Complainant did not pay the required security deposits. The Respondent claims they notified the Complainant that if the deposits were not received, they would no longer manage the property. The Respondent goes on to say that they were notified of the duplex sale on May 4, 2022. By May 17, the Complainant informed the Respondent that security deposits should be sent to the new owner. The Respondent claims they were entitled to 30 days-notice in which to settle up the accounts and disburse them. By June 17, the Respondent claims to have sent over final accounting, showing all monies accounted for and returned to owner.

As best counsel can tell, the crux of the problem goes back to the security deposits not paid by the Complainant in May. After this, then there was a good deal of confusion as to who to pay and what amounts since tenants had paid rent during the time the sale was ongoing. It appears the Complainant was entitled to money; however, no one with the Respondent knew how much to pay given the quick sale. Ultimately, the Complainant received the money she was owed.

**Recommendation: Close.**

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

5. **2022026001**  
**Opened: 7/11/2022**  
**First Licensed: 4/13/2016**  
**Expires: 4/12/2024**  
**Type of License: Real Estate Firm**  
**History: None**

The Complainant is the buyer. The Respondent is the buyer's agent's firm.

The Complainant entered into a contract to purchase a new build for her mother in May 2022. The Complainant says she and her disabled mother were in a hotel and needed to close no later than June 30. The contract had a closing date of "July 15" that the Complainant claims she questioned. She claims her agent told her the date was "just a formality just in case of unforeseen circumstances, but builder is pushing to close on June 30<sup>th</sup> because he is aware of your and your mother's situation..."

Eventually, it became apparent that the house was not going to close by June 30. The Complainant alleges she and her mother had moved in and out of 4 different Airbnb's by the end of June. Apparently, the builder had a delay in getting the carpet and would not complete the house until July 15. The builder could not allow them to move in until a certificate of occupancy was issued. The buyer said it would cost more money to stay in hotels rather than just terminate the contract and get the \$5,000 earnest money back. After some back and forth, the parties did a mutual release with the earnest money going to the Complainant.

The buyer's agent says they had no control over when the builder would finish the house. The agent's principal broker says that they tried to get the Complainant and her mother in a rental trailer; however, the Complainant opted not to do that. At some point, the principal broker mentioned that she could possibly use her new Mercedes-Benz car as collateral for a loan. This offended the Complainant and likely has a good deal to do with the complaint.

**Recommendation: Close.**

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

6. **2022025101**  
**Opened: 7/11/2022**  
**Unlicensed**  
**History: None**

The Complainant is a tenant. The Respondent is an unlicensed entity.

The Complainant says she received a notice that her lease would not be renewed due to the property management's inability to access the apartment for maintenance. The Complainant believes she is being retaliated against by the landlord in violation of T.C.A. 66-28-514.



The regional property director responded to the complaint. He says that the tenant has repeatedly refused preventative maintenance services by not allowing maintenance employees into the apartment. The Respondent takes the position that the Complainant is too uncooperative as a tenant and is exercising the right not to renew the lease.

While the property management entity is unlicensed, there is a licensed principal broker who oversees the day-to-day activities.

**Recommendation: Close.**

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

7. **2022022421**  
**Opened: 7/18/2022**  
**First Licensed: 8/5/2008**  
**Expires: 8/4/2024**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is anonymous. The Respondent is an affiliate broker.

The complaint only says, "The law that was passed about listing a home with less than [sic] the allowed bedroom is somewhat convoluted to begin with however, agents continue to list more than [sic] allowed." The complaint references "septic letters" and "disclosures."

The Respondent did not have a good method in which to respond to the complaint aside from using one of her current listings. The response, which was drafted by an attorney, says that the Tennessee Consumer Protection Act (TCPA) does create a cause of action for buyers where a new home is "knowingly" advertised or marketed with inaccurate information concerning the number of bedrooms and the permissibility for those bedrooms. The applicable portion of the act only applies to new construction. The Respondent, apparently, has not listed any new homes, therefore, the TCPA would not apply in this case. Further, the Respondent says that if the complaint relates to the listing identified by the anonymous Complainant, she was unaware of any restrictions on the number of bedrooms for that house.

**Recommendation: Close.**

**Commission Decision: The Commission voted to issue a Letter of Instruction regarding the use of reasonable skill and care in a transaction.**

8. **2022023701**  
**Opened: 7/18/2022**  
**First Licensed: 10/26/2004**  
**Expires: 12/14/2022**  
**Type of License: Principal Broker**  
**History: None**

The Complainant is an affiliate broker. The Respondent is the Complainant's principal broker.

The Complainant says he was the broker on a transaction in April 2022 in which he was to receive a 3% commission. He claims that there was a verbal agreement between he and the Respondent in which all commissions were 80/20 with the larger portion going to the Complainant. According to the Complainant, the Respondent has not paid him the April commission and is now having difficulty reaching him.

The complaint was never received by the Respondent, therefore, there is no response in the complaint file. Counsel attempted to contact the Respondent at two (2) different addresses, and both mailings were returned as undeliverable. Counsel also attempted to call the Respondent and the call went straight to a voicemail that had not been set up. The response was also emailed but was not returned.

**Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for violation of Tenn. Code Ann. § 62-13-313(a)(2) (Failure to file with the commission the applicant's or licensee's answer to the complaint).**

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

**9. 2022024401**  
**Opened: 7/18/2022**  
**First Licensed: 11/30/2017**  
**Expires: 11/29/2023**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is a principal broker. The Respondent is the listing agent.

The Complainant says she met with the sellers in May 2022 "to discuss the sale of their property." The Complainant says the home was listed on the MLS as a 4-bedroom; however, the septic permit with TDEC says it was only for a 2-bedroom. Later on, the sellers listed the home with another broker who continued to list the house as a 4-bedroom. The Complainant takes the position the Respondent is engaging in misrepresentation with respect to the listing.

The Respondent says she has been working with the sellers for 30 months. The Respondent says she searched the home on "CRS" and the number of bedrooms was unlisted. She then says she searched on the MLS and found the number of bedrooms listed as "4." Apparently, the Respondent received no differing information from her sellers (or they did not volunteer such if they knew).

It appears the Respondent utilized reasonable skill and care as there is no evidence, she was aware that the home was only permitted for a 2-bedroom v. a 4-bedroom. T.C.A. 62-13-403(2) requires disclosure of adverse facts that are "known" to the broker.

**Recommendation: Close.**

**Commission Decision: The Commission voted to issue a Letter of Instruction as to exercising reasonable skill and care in a transaction.**

**10. 2022026991**  
**Opened: 7/18/2022**  
**First Licensed: 12/28/2017**  
**Expires: 10/31/2023**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is the listing agent. The Respondent is an affiliate broker.

The Complainant says she has an active listing with two sellers that runs through October 2022 (the listing was to expire June 30 but was extended). The Complainant alleges the Respondent was actively attempting to have her sellers switch brokers in order to gain the listing. This information, supposedly, came from another realtor that works in the same office with the Respondent. According to the Complainant, the Respondent told one of the sellers through text that “she needed a luxury agent” in order to sell the home and that the Complainant was “probably part of the problem.” To complicate the facts a bit, the sellers are estranged from one another, and the husband was not in agreement to switch brokers in order to go with the Respondent. Additionally, the house had been under contract three different times with each falling through.

The Respondent says the issue first arose with what the Respondent calls a “hypothetical question” from a friend. The friend was also the aunt of one of the sellers. The friend supposedly asked if a realtor, representing two married sellers, could work for one party in obtaining another property without the knowledge and consent of the other. The Respondent says that, initially, she advised the person to consult with an attorney. After some further discussion, the friend explained that that her niece (seller) was seeking to purchase a new home. Eventually, this led to the Respondent texting with one of the Complainant’s sellers. The Respondent says she found out the seller and her estranged spouse had their home listed with the Complainant. The Respondent says the seller did voice some disgruntlement with the Complainant but was not ready to fire her. The Respondent explains that part of the frustration was the multiple contracts that had fallen through. According to the Respondent, the seller did voice her desire for the Respondent to take over the listing once the current listing expired with the Complainant. The Respondent says that she did not know that the listing had been extended at that time (either the seller did not know or did not tell the Respondent).

The Respondent denies that she spoke ill of the Complainant or her ability to sell the property. She says that she told the Complainant that she was “1 of 4 agents in the area with CHLMS Designation and the property would be seen by an international pool of buyers because of that.” She claims she said this, again, before understanding that the listing had been extended.

The Respondent appears to have only acted on what she was told by the seller. It is apparent the seller was either not being entirely honest or was uninformed about her own listing status. The complaint does not rise to the level of an active attempt to steal a client from another broker.

**Recommendation: Close.**

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

11. **2022027031**  
**Opened: 7/18/2022**  
**First Licensed: 9/28/2015**  
**Expires: 11/29/2023**  
**Type of License: Real Estate Broker**  
**History: None**

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

The Complainant says the buyer made an offer to purchase her condo in May 2022. She goes on to say that the financing was acquired in time as required by the purchase/sale agreement. The closing was scheduled for June 29. On June 22, the Complainant says the Respondent emailed that his buyer was going to switch from VA financing to conventional due to the condo not being VA approved. The Respondent supposedly explained that the buyer had the money to complete the deal; however, the loan processor "missed this." The Respondent said he would send a request to extend the closing since it was highly unlikely new financing would be secured by June 29. The buyer then cancelled the contract before a request for extension was sent. The Complainant believes the Respondent's actions were negligent and dishonest.

The Respondent says he notified the listing agent on the day the lender informed the buyer that the condo did not qualify for VA financing after review by an underwriter. The lender "verbally" informed the Respondent that they should be able to switch the buyer to another form of financing. The Respondent claims he told the listing agent that the delay would push them back to a July 8 closing if they agreed. Eventually, the underwriter concluded that the buyer would not qualify under a different form of financing. The Respondent then sent a mutual release as the property did not qualify for VA financing. The purchase/sale agreement contained a contingency provision that the buyer would qualify for 100% of the purchase price.

It appears there was no lack of reasonable skill and care on the part of the Respondent. The financing fell through with a contingency built in the agreement that permitted the buyer to cancel and have all earnest money returned.

**Recommendation: Close.**

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

12. **2022027531**  
**Opened: 7/18/2022**  
**First Licensed: 11/30/2018**  
**Expires: 6/2/2024**  
**Type of License: Real Estate Broker**

**History: None**

The Complainant is the buyer. The Respondent is the listing agent.

The Complainant says she put \$1,000 earnest money down as part of an offer on a home in July 2020. The Complainant goes on to say that the contract was later “voided” after she opted not to close given the “unsatisfactory walkthrough inspection revealing undisclosed possible environmental hazards.” The Complainant claims the earnest money was never returned.

The Respondent says the buyer failed to close in 2020, leading to a dispute over the disbursement of the earnest money. The Respondent states the closing failed after the buyer sent a notice of termination before closing following a home inspection, with the buyer declining to request an extension or any repairs. The Respondent informed the buyer they would be going through with closing as their client had moved and it was a time sensitive issue.

The Respondent states both the buyer and seller were requested to execute mutual releases of earnest money and could not come to a conclusion. At no point, did the Respondent’s firm hold the earnest money. The money was placed with the title company who, according to the Respondent, was “encouraged” to interplead the funds. Ultimately, a civil suit was filed between the parties that resulted in a Five Hundred (\$500.00) judgment for Complainant in mid-October, against the Respondent’s former client. The Respondent’s firm was named a party but dismissed from the suit.

The Respondent appears to have shown no lack of reasonable skill and care. The earnest money was placed with the title company and the matter has been resolved civilly.

**Recommendation: Close.**

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

13. **2022028371**  
**Opened: 7/18/2022**  
**First Licensed: 9/5/2013**  
**Expires: 9/4/2023**  
**Type of License: Real Estate Firm**  
**History: None**

The Complainant is an affiliate broker. The Respondent is a realty firm.

The Complainant says she was an affiliate broker with the Respondent up until February 2022. On March 24, 2022, the Complainant says her picture was still on the Respondent’s website as an affiliated broker. Over the next several months, the Complainant says she notified the managing broker to take down her photo from the firm website. As of July 2022, the photo was still on the Respondent’s website.

The Respondent says they have long since removed the Complainant from the firm website (counsel can confirm this). Where the Complainant is coming up as still being affiliated with the Respondent is through Google searches. The Respondent says they have no control over these search results. The Respondent says that all depends on where the agent has posted their own websites.

**Recommendation: Close.**

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

14. **2022025771**  
**Opened: 7/25/2022**  
**First Licensed: 1/5/1987**  
**Expires: 10/8/2024**  
**Type of License: Principal Broker**  
**History: None**

The Complainant is the buyer. The Respondent is the listing agent and co-seller.

The Complainant says he has tried to “back out” of a contract on the Respondent’s listing; however, he claims the Respondent has been unresponsive to his agent. He says that without first being released from the subject contract, he cannot seek another property. Based on information in the Respondent’s response, the Complainant was attempting to use the funds from the sale of his home to close on the Respondent’s listing.

The Respondent says that the subject purchase/sale agreement had an expiration date of July 29, 2022. The Respondent claims to have released the 1<sup>st</sup> right of refusal on June 15 after the Complainant’s agent emailed the Respondent the lender’s approval letter for the home the Complainant was selling. The Complainant’s agent also gave the Respondent the approval letter for the purchase of her listing a bit later.

The Respondent explains that it was her understanding that the Complainant then wanted to make an offer on a different home listed on June 16 with a different agent. The Respondent says she received a mutual release on June 24 and claims to have immediately released the Complainant from the sale of her listing. The realty firm then completed the mutual release on June 27.

The Complainant lodged this complaint on June 24-the same day the Respondent says she signed the mutual release form. It appears it took some additional time to get the form through to the realty firm (3 days); however, the Complainant was released, and earnest money returned well within 21 days.

**Recommendation: Close.**

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

**15. 2022024201**  
**Opened: 7/25/2022**  
**Unlicensed**  
**History: None**

The Complainant is a Texas resident and time share owner. The Complainant is an unlicensed person or entity.

The Complainant says he was contacted by an individual who claimed to be a realtor in TN offering to purchase his time share located in Mexico. The Complainant claims he and his attorney did some due diligence and found nothing to be suspicious as both the realty firm and the realtor had active licenses in TN. The Complainant then proceeded with the process. As of the filing of the complaint, the Complainant had paid \$25,000 in “transfer fees” with no legitimate sale ever taking place.

The other party appears to have utilized “verify.tn” or some other source to use active licensee names and firm names to create fake documents and scam folks out of state. A similar complaint was lodged earlier this year involving a time share in Mexico with a resident from MN who claimed she was scammed in a similar fashion. The people may or may not be located in the United States as much of the work could be done from anywhere. They are clearly targeting people who have time shares and want to sell them. The legitimate licensees had no idea their information was being used.

**Recommendation: Close.**

**Commission Decision: The Commission voted to close this complaint and to refer it to the Division of Consumer Affairs.**

**16. 2022025351**  
**Opened: 8/1/2022**  
**First Licensed: 12/9/2019**  
**Expires: 12/8/2021(Expired)**  
**Type of License: Affiliate Broker**  
**History: 2020 Letter of Warning**

The Complainant is neither a buyer nor seller of real estate and not a licensee. The Respondent is a former affiliate broker.

The Complainant says the Respondent is marketing properties for other people with a “license in retirement.” The Complainant explains, “[Respondent] advertises that he is purchasing homes from people to secure the ability to sell their homes in essence a net listing.” The Complainant includes a number of Facebook posts on the both the Respondent’s personal and business page in which he is advertising homes. It is not clear if he owns the homes. Counsel located a photo in which the Respondent advertises that, “I buy houses fast for cash.”

The Respondent did not respond to the complaint. All mail was returned as undeliverable. This matter was sent out for investigation. The Respondent stated he does not need a license for his business and that they he is a “target” in the area due to his success. The Respondent states that he buys houses with his investment group and sells them which he states is no different from other investors in the country. The Respondent also states they do not know the Complainant. The Respondent states they also buy rental property to keep for themselves and operate their business as a real estate investor ethically and with transparency. The Respondent also states the Facebook group mentioned by the Complainant is now dissolved and they were once a member.

There is no information gathered that Respondent is acting as a real estate licensee. The Respondent states they are offering to purchase the home themselves, which does not require a license. Also, the Respondent is advertising and selling homes that they own, which falls into the owner exemption in T. C. A. § 62-13-104(a)(1)(a).

**Recommendation: Close.**

**Commission Decision: The Commission voted to accept counsel’s recommendation.**

**17. 2022027521**  
**Opened: 8/1/2022**  
**First Licensed: 5/12/1995**  
**Expires: 9/22/2023**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainants are the buyer. The Respondent is the Complainants’ agent.

The Complainants say they put an offer on a house in East TN utilizing the Respondent as an agent. The Complainants still owned a house in West TN and were attempting to sell that property without an agent. The Complainants price range was \$550K-\$700K.

After the Complainants were turned down on a number of properties over the course of a couple of months, they finally had an offer accepted. The purchase/sale agreement only contained the contingency that the buyers would be able to obtain a loan up to “70%” of the purchase price. The sale price of the subject home in East TN was \$615,000 with \$10,000 as earnest money. The Complainants say they were intent on using the funds from the sale of the West TN home to fund the purchase of the home in East TN. Ultimately, the sale of the West TN home fell through. Consequently, they could not obtain sufficient financing without the sale of their house. The sellers took the position that this constituted default and retained the earnest money. The Complainants allege that the Respondent told them that a home sale contingency was not necessary, claiming the Respondent assured them they would get the earnest money back. Thus, this complaint stems from the loss of the earnest money. The Respondent’s principal broker interpleaded the money within 21 days.

The Respondent says she worked with the Complainants for roughly eight months. The Complainants made eight separate offers, all without contingencies regarding the West TN home,



and all eight were rejected. The Respondent says most were multiple offer situations. Finally, an offer was accepted, and a closing date identified. Over the course of the following two weeks, the Complainants were still unable to sell their West TN home. The Respondent says she went to the sellers' agent to inquire if they would agree to a reduction to \$570K. The sellers would not agree to come down on the price but did agree to amend the closing date. Even with the extension, the Respondent says the Complainants' West TN house simply did not appraise for as much as anticipated and would not be able to sell in time. Further, they could not get enough financing to purchase the East TN home while still carrying the West TN property. The Respondent closes by saying that an "independent release" was eventually negotiated; however, she does not state what the terms of the release were.

While the Respondent never explicitly states it, the Respondent appears to have recommended not making any offer contingent on the sale of the West TN home because of the competitive market. Given the nature of the market and the multiple offer situations, it seems the Respondent thought it best to leave out that contingency. Likely, the Complainants and Respondent were never on the same page as to what a "contractual contingency" was versus the sellers just being aware that the Complainants' house was still on the market. By the terms of the purchase/sale agreement, the sellers were likely entitled to retain the earnest money. Further, the Respondent and listing agent may have thought the Complainants would come through with the sale of the West TN home, eliminating the need to include a contingency provision.

**Recommendation: Discussion.**

**Commission Decision: The Commission voted to issue a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty for failure to exercise reasonable skill and care.**

**18. 2022029311**  
**Opened: 8/1/2022**  
**First Licensed: 7/11/2022**  
**Expires: 7/10/2024**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is the seller. The Respondent is the listing agent.

The Complainant says the Respondent agreed to list his land on or about July 14, 2022. He claims that both he and the Respondent signed a listing agreement to that effect. The Complainant alleges the Respondent has since refused to list the property.

The Respondent says that she was contacted by the Complainant through a lead service on July 14. She explains that the Complainant was attempting to list a piece of vacant property in a very rural part of the state. The Respondent, apparently, signed the listing agreement before finding out the property was in an area where cell phone service was non-existent. As she felt somewhat uncomfortable with traveling to an area with no cell phone service an hour away from home, the Respondent informed the Complainant he would be better served getting a new agent for the

property (she claims to have suggested someone by name). The Respondent says the Complainant did not want to sign a mutual release, saying, “Can we hit the easy button and list it?” Eventually, the Respondent’s principal broker spoke with the Complainant. Although he was supposedly “aggressive” with the principal broker, the Complainant signed the release and listed the property with another broker.

The Respondent accepted the listing after being licensed for three days. It appears the Respondent may have acted a bit prematurely given the lack of experience, although the isolated location of the listing might be a consideration for an experienced broker. There is no evidence the Respondent was harmed as a result of switching brokers.

**Recommendation: Close.**

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

**19. 2022030101**  
**Opened: 8/1/2022**  
**First Licensed: 1/5/2018**  
**Expires: 1/4/2024**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is an Arkansas resident and is neither a buyer nor seller of real estate. The Respondent is the listing agent.

The Complainant says his mother is listing a home for sale in which he is a co-owner. He claims that his mother quitclaimed him half the interest in the home (along with her) in 2018. In June 2022, the Complainant alleges that his mother did a second quitclaim deed, removing him as the co-owner by forging his signature. The Complainant then explains that he called the Respondent in an attempt to make him aware of his mother’s actions as well as his ownership in the property. The Complainant also claims to have filed a police report by which the matter is being investigated.

The Respondent says he received a phone from the Complainant in June posing as the buyer’s agent. The Respondent explains that he knew the Complainant was lying as he had spoken with the actual buyer’s agent over the phone. The Respondent says he was trying to get the name of the title company handling the closing. The Respondent claims he hung up on the Complainant as he believed he was being dishonest. He then let the closing attorney know what had happened and forwarded all the Complainant’s texts and emails to the attorney.

The Complainant should hire an attorney if he believes his interest in the property is in danger. The Respondent had no prior knowledge of the Complainant’s existence until the phone call.

**Recommendation: Close.**

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

**20. 2022030581**  
**Opened: 8/1/2022**  
**First Licensed: 2/3/2021**  
**Expires: 2/2/2023**  
**Type of License: Affiliate Broker**  
**History: None**

The Complainant is the buyer. The Respondent is the listing agent.

The Complainant says he went under contract to purchase the subject home on June 17, 2022. The Complainant was working with his own realtor. The contract was contingent on a home inspection and appraisal. Supposedly, the home inspector found water or dampness in the home's basement. The seller ultimately agreed to the expenses associated with the repairs. The Complainant goes on to say that the property disclosures made no mention of the water leakage. After closing, the same contractor came back out to do some follow up work and found more water. The Complainant takes the position the sellers and Respondent failed to disclose the problems with the basement. The Complainant says had he known about the water issue, he may not have purchased the house.

The Respondent says he was not aware of any water in the basement. He goes on to say that he was not sure if the sellers were aware of it either. The Respondent does say the sellers agreed to pay for the repairs that were identified prior to closing (\$14,597,00).

The Respondent was not aware of the water leakage in the basement. The Respondent was under no obligation to hire an inspector to find any problems. If the sellers were not aware, then the Respondent was unlikely to be aware.

**Recommendation: Close.**

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

### **CASES TO BE REPRESENTED**

**21. 2022010091**  
**Opened: 4/18/2022**  
**First Licensed: 2/4/2003**  
**Expires: 1/10/2023**  
**Type of License: Principal Broker**  
**History: 2007 Letter of Warning; 2010 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2020 Letter of Warning; 2021 Consent Order for failure to supervise due to lapse in affiliate's E&O insurance; 2022 Consent Order for failure to supervise due to an advertising violation**

The Complainant was originally the listing agent. The Respondent is the principal broker for the buyers' broker. \*The complaint against the affiliate broker was closed at the March 2022 meeting;

however, the Commission requested a complaint be administratively opened against the principal broker.

The Complainant originally alleged their clients were scheduled to close on 10/15/2021 and the buyers agreed to submit earnest money toward the purchase within five (5) days of the contract. On 10/12/2021, Complainant received a request to extend closing by two (2) weeks. Complainant's clients agreed to the extension and the buyers would relinquish earnest money if closing did not occur on 10/29/2021. All parties signed the extension on 10/15/2021. Complainant states they did not received notice from Respondent or their client. Also, Respondent and their client had yet to submit any documentation for purchase or closing. Complainant alleges upon contacting Respondent they were told to contact Respondent's client as they are handling the earnest money deposit. Complainant contacted Respondent's client and was provided no clear answer on the missing funds, but Respondent's client assured closing would proceed the next day. The day of closing Complainant spoke to Respondent's client several times and finally stated Respondent was to send an extension agreement. Complainant's clients allowed the contract to expire and did not sign an extension. However, Complainant's clients have yet to receive the agreed upon earnest money.

The affiliate broker explained in her response that she and their fiancé, now husband, submitted an offer to purchase the home of Complainant's sellers. The affiliate detailed that an extension was made past the original closing date and the earnest money was due five (5) days after the contract bound. **The affiliate stated their client began having difficulties submitting earnest money due to several issues including inability to access accounts frozen due by the bank to fraudulent activity, a check failing to clear, notice a cashier's check could not be sent from a stock brokerage account, wiring instruction mishaps, missed communications without response, and the affiliate client changing jobs which led to changing the loan application bank.** On 10/28/2021, Complainant contacted the affiliate broker about the absent earnest money. The affiliate broker contacted their law firm holding the funds to inquire if the funds had arrived but failed to receive a response and therefore believed closing would proceed as usual on 10/29/2021. However, on 10/29/2021 it was clear to the affiliate that this matter would not close on this date. When the affiliate broker called Complainant, the affiliate alleged the Complainant informed the affiliate the contract was to be cancelled by RF 656. The affiliate broker stated since they did not hear communication about the earnest money from Complainant and that previously Complainant terminated the contract stating it was null and void, no outstanding earnest money remained. The affiliate broker stated the Complainant made no mention of any further obligations, financial or otherwise.

The Respondent (principal broker) states that he reviewed the transactional file involved in the complaint and discussed the file with the affiliate broker. He says she was required to upload all of the transactional documents into the management platform, which she did. Once uploaded, all documents were carefully reviewed by our Contract Compliance Specialist Team for accuracy, completeness, and compliance. The Affiliate broker says all members of the compliance team are currently licensed real estate agents or retired real estate agents and each receives extensive training both on the national and state level and all are very knowledgeable about the TAR documents and requirements. The compliance team confers with one of the brokers if any question arises. He says his affiliate broker completed the required TAR documents, including a RF 305,

Personal Interest Disclosure, properly disclosing her role as one of the buyers of the property (she was not on any loan documents). He goes on to say that the file also contained a fully executed Amendment extending the Closing Date to October 29, 2021, a date that the new lender and the affiliate broker's fiancé believed that all items for the closing could be reviewed and approved by the lender's underwriters. The Affiliate broker says he believed that the affiliate broker acted in good faith and was diligently pursuing the close of the transaction.

The Affiliate broker explains that when the affiliate broker joined his firm, she had just received her affiliate broker license in September 2021. Since she was newly licensed, he says that she was required to enter the firm program. During the onboarding process, he says she was Ms. carefully paired with an experienced, licensed agent who had been vetted by the TN Management Team and trained through the national "Firm Realty University Mentor Certification process" and was certified as a mentor by the firm realty office. The Affiliate broker says the affiliate broker stated worked with her mentor closely during the few months she was affiliated with his firm and found her to be a great resource. According to him, the mentor program was established by the firm almost 10 years ago to provide new agents a learning platform where the new agent will "gain the fundamental knowledge to start and build a successful real estate career."

He goes on to say, "The mentor provides knowledge and guidance in a practical and hands on manner to lead the mentee in the early stages of their career so that the mentee establishes a strong foundation and understanding of the forms, laws, rules and intricacies of a transaction in order that the mentee gains the confidence, understanding and skills to work with customers and clients as they progress through their careers."

It appears the Respondent's firm has a robust training and mentoring program that addresses these issues. As the standard is a "failure to supervise," the Respondent must be found to have failed in the exercise of his supervisory duties. Here, it appears the Respondent fulfilled his duty and the earnest money woes seem to have resulted more from the problems with the buyers' checking account than anything else.

**Recommendation: Close.**

**Commission Decision: The Commission voted to authorize a contested case proceeding and to issue a Consent Order with a \$1,000.00 civil penalty for failure to supervise.**

**New Information: The subject earnest money was paid in a timely fashion; however, it was the bank that placed a hold on the client's account because of fraudulent activity detected on the account. Upon learning of this, the affiliate broker contacted the title company to notify them of the issue with the bank and that the earnest money may not clear. According to the purchase/sale agreement, it was the title company who was supposed to notify the parties if the earnest money was never received. All the parties agree the title company never notified anyone the check had not cleared. The Respondent Principal Broker had not authority over the client's bank account (nor would any Principal Broker). Given this, along with the title company's failure to notify all parties regarding the bounced check, the Principal Broker was not in a position to prevent the deal from falling through.**

**New Recommendation: Close.**

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

**Anna Matlock:**

**New Complaints:**

**22. 2022026361**

**Opened: 7/18/2022**

**First Licensed: 6/7/2021**

**Expires: 6/6/2023**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant states they hired Respondent to assist them in purchasing a home, which included them waiving the inspection and agreeing to pay an earnest money deposit. Complainant alleges they experienced difficulties obtaining financing and Respondent refused to return their earnest money during their approval process. Complainant further alleges they were later unaware the Purchase and Sale Agreement terminated, even though Complainant still attempted to obtain financing. Complainant alleges Respondent harassed them with threatening, derogatory messages and calls, and did not properly represent them during the transaction. Complainant seeks return of their earnest money deposit.

Respondent answered the complaint stating they met with Complainant to discuss the subject property and an offer package was executed, but a superior offer was accepted. Respondent states Complainant had an active pre-qualification letter and then encountered complications that led to a denial, but later obtained pre-qualification from a second lender, though both parties understood the risk of delay. Respondent details how they were contacted by Complainant's lender about communication difficulties and expressed their own communication difficulties, including unanswered calls, text messages, and voicemails. Eventually, due to the lack of communication the Purchase and Sale Agreement expired, and Respondent states Complainant defaulted. Respondent states it was determined Complainant failed to pursue qualification for and approval of the loan diligently and in good faith and Complainant breached the contract through their verbal admission of obtaining a secondary contract for purchase of real property in another state as Complainant failed to not intentionally make changing in their financing conditions that would adversely affect their ability to obtain the primary loan. Respondent states they were instructed by their principal broker to send the Mutual Release of Purchase and Sale Agreement and Distribution of Earnest Money to Complainant. Complainant failed to respond to any further communication but executed the release. Due Complainant's actions, Respondent states this resulted in the loss of Complainant's earnest money. Respondent's principal broker submitted a response corroborating Respondent's statement of facts.

Complainant submitted a rebuttal stating Respondent and their principal broker had no communication difficulties during the transaction and reiterates their intention to purchase the property and obtain financing. Complainant states they were told the reason for their loan issues

is due to the fact they did not have stable income/employment. Complainant denies all allegations related to communication issues. Based on the information provided, Counsel finds no evidence to support Complainant's allegations against Respondent. Complainant provides no documentation to support their statements and it appears their earnest money dispute may be the subject of a contractual dispute due to breach of contract. The Commission does not have jurisdiction over contractual disputes. Due to the lack of supporting information and evidence, and no findings of violations of the rules or statutes, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**23. 2022026951**  
**Opened: 7/18/2022**  
**First Licensed: 8/26/2005**  
**Expires: 8/25/2023**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a Tennessee resident. Respondent is a licensed affiliate broker. Complainant alleges during the purchase of their property they were offered a storage building located in the back of the property for an additional amount of money and closing costs. Ultimately, Complainant declined. On May 3, 2022, Complainant closed on their property, but were asked if the seller could remain on the property until May 12, 2022. At this time, Complainant noticed in their transaction documents that the storage building was included in the appraisal and Complainant paid \$2,000 for it. Complainant states Respondent offered them additional money to permit the seller to remain on the property for additional amount of time and confirmed the details about the storage building being leased. Complainant refused the additional funds and Respondent gave them the keys to their property on May 13, 2022, and stated the seller was leaving the storage building. On May 24, 2022, Complainant discovered the storage building was a leased item from a third-party company. Complainant believes Respondent misrepresented and sold the property under false pretenses as the storage building was not even listed with the property and Complainant now has a lien on their property.

Respondent provided a response and a supplemental response through their attorney. Respondent's attorney states though Complainant is married to the buyer, they are not a party to the Purchase and Sale Agreement and their position should be considered irrelevant, especially as it contradicts the buyer, Complainant's spouse's position. Respondent's attorney states the leased storage building was not part of the Purchase and Sale Agreement and Complainant, and their spouse were specifically informed this would not be purchased. Specifically, the Purchase and Sale Agreement plainly excluded Complainant's assumption of any leases related to the storage building and this was not paid for in the contract price. Respondent's attorney states they, along with Respondent, are unaware of any lien mentioned by Complainant. Respondent answered the complaint stating they facilitated the sale of the property and first contacted Complainant when a contract fell through due to buyer financing. Respondent states during the first showing of the property, they explained to Complainant that the larger storage building on the property was a leased item and it

would be moved. Respondent states at no time was it mentioned during the transaction that the storage building would remain on the property, nor was an offer of money for building to be purchased or closing costs made. Further, Respondent states the seller made it clear that they were still paying on the storage building and that it would eventually be moved from the property. Respondent denies misrepresenting the property under false pretenses. To address the seller remaining on the property, Respondent states the seller had a delay in the purchase of their new property and this was handled via addendum that included the dates and terms of the extended period. Respondent states when they were contacted by the third-party leasing company, they informed them Complainant was aware the storage building was leased and had signed a document acknowledging they did not assume any leased items in the contract.

First, it must be addressed that Complainant is not a party to the transaction, as their name does not appear as a buyer on the Confirmation of Agency Agreement, Purchase and Sale Agreement, or any of the transaction related documents. Therefore, Complainant, though married to the buyer, is an outside third party to this transaction. It is clear from the submitted documentation that the storage building did not belong to Complainant, their spouse, and was not paid for in the Purchase and Sale Agreement. Due to the supporting documentation, Counsel finds no evidence to support that Respondent misrepresented this information to Complainant. Based on the information provided by Complainant, Respondent's attorney, and Respondent 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.**

**24. 2022027641**  
**Opened: 7/18/2022**  
**First Licensed: 10/16/2024**  
**Expires: 10/16/2022**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is an out of state resident. Respondent is a licensed affiliate broker. Complainant alleges Respondent is causing a conflict of interest, has been very dishonest, unprofessional, and has poor communication. Complainant alleges they have experienced difficulties with Respondent's lack of communication and alleges Respondent may be representing the other party in the transaction. Complainant alleges Respondent lied about the sale price, marketing, and promotion. Complainant provides no evidence to support their allegations.

Respondent answered the complaint denying any communication issues and states they have assisted Complainant purchase a new home and sell their present home with few issues. Further, Respondent states Complainant's property was able to sell quickly and a great price for the neighborhood. Respondent states both Complainant and the buyer have signed dual agency disclosures and the buyer purchased the property "as is". Based on the information provided by Respondent and lack of information provided by Complainant, Counsel finds no violation of any rules or statutes and recommends this matter be dismissed.



**Recommendation: Dismiss.**

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

25. **2022029341**  
**Opened: 8/1/2022**  
**First Licensed: 8/5/2008**  
**Expires: 8/4/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is anonymous. Respondent is a licensed affiliate broker. Complainant alleges Respondent gives a portion, up to half, of their commission back to the buyer after closing, which they believe to be unfair competition for other agents. Complainant states they do not have any proof, but this information was provided by one of their clients that also wishes to remain anonymous.

Respondent answered the complaint denying all the allegations in the complaint. Respondent states they have reviewed their bank statements with their principal broker for their last five (5) transactions and discovered no issues. Complainant has provided no proof, and acknowledges they have no proof, to support their claims against Respondent. Further, as Complainant is anonymous, there is no way to follow up to seek additional details or information related to the allegations. There is even mention of the complaint possibly being a rumor. Therefore, due to the insufficient amount of information, 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.**

26. **2022025981**  
**Opened: 8/8/2022**  
**First Licensed: 8/18/1989**  
**Expires: 2/16/2023**  
**Type of License: Real Estate Firm**  
**History: None**

This complaint is related to 2022026281 presented in October 2022 against the mentioned affiliate broker. The Commission voted to dismiss this complaint.

Complainant is a Tennessee resident. Respondent is a licensed real estate firm. Complainant states they closed on their property on December 4, 2020, and several windows were defective. During this transaction, Complainant states they were told by a representative of Respondent they were on order but have not received contact from the window contractor and have included emails from the affiliate broker and window contractor from 2020 and 2021.

Respondent answered the complaint through their principal broker. Respondent's principal broker states following the home inspection the contractors were hired and the work was completed prior to closing, with exception for the installation of the windows. The windows were ordered but on back order. During this time period, the pandemic occurred, but eventually the windows were in stock, and the affiliate broker placed the installation on their calendar. After encountering a second issue, the windows are on order and are due to be replaced. Upon receiving the complaint, the affiliate broker contacted the contractor, verified they had the windows on their schedule, scheduled a visit to Complainant's property, and then paid for the window replacement. Based on the information provided, included the previously presented complaint in October 2022, Counsel finds no violations of the rules and statutes against the firm. While the issues are still working to be resolved, the affiliate broker took affirmative steps in 2020, 2021, and receipt of both complaints to remedy this issue. Therefore, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**27. 2022031801**  
**Opened: 8/15/2022**  
**First Licensed: 2/21/2017**  
**Expires: 2/20/2023**  
**Type of License: Affiliate Broker**  
**History: 2018 Letter of Warning for Advertising Violation**

Complainant is an out of state resident. Respondent is an affiliate broker. Complainant alleges they and their spouse first met Respondent and their spouse in 2018 and began a personal friendship relationship. Due to marital relationship issues, Complainant's spouse filed to sell their property in February 2021. Complainant alleges Respondent was aware they did not want to sell the home, that their spouse was not paying the bills, aware of their marital situation, and the current health of their spouse. Complainant alleges Respondent was communicating with their spouse behind their back with personal and legal information that had been shared. Complainant states Respondent provided their "professional opinion" to their spouse's attorney as it related to the sale of the property during the divorce proceedings and Complainant alleges, they lost their home due to Respondent's actions. Complainant states their property was their only leverage in the divorce proceedings and Respondent ensured their spouse got the sale. Complainant also alleges Respondent refused to provide them an offer that was presented on the property so their spouse could falsely accuse them of not signing the document, including Respondent providing an affidavit in support of their spouse. Complainant states Respondent put themselves in the middle of their divorce proceedings and betrayed one of their clients to make sure they made a profit, acting unethically.

Respondent submitted a response through the assistance of an attorney. Respondent's attorney states Complainant filed for divorce in March of 2020 and Complainant's spouse filed a motion asking for the residence to be sold on January 31, 2021. The Court made the determination Respondent was to be the real estate agent for the sale of the property and certain tasks and

timelines were put in place, including the property to be listed within forty-five (45) days. Respondent's attorney states eventually the court granted Complainant's spouse full decision-making powers related to the sale of the property and ordered Complainant to be removed from the marital property. Ultimately, Respondent's attorney states the property was sold and handled via the Marital Dissolution Agreement. Respondent's attorney denies Complainant's allegations stating Respondent was aware Complainant did not want to sell the property, when Complainant is the individual that requested the Court divide the property in their divorce complaint filing. Respondent's attorney lastly refutes any allegations related to the fact that Respondent was aware of any "incompetency" of Complainant's spouse as this was neither raised nor challenged at any point during the divorce proceeding. In Respondent's personal statement they state they have no personal knowledge of any advice given by Complainant's attorney, that they were not involved in the sale of the property until the Court signed an agreed order, they had not seen anything or told anything related to Complainant's spouse being incompetent and did their best to comply with the different court orders. After reviewing the statements from Complainant, Respondent's attorney, and Respondent, it appears this mostly involves a sale of real property during a domestic relations civil proceeding. Respondent was hired via court order and acting in accordance with their duties as dictated by the Court. Complainant provides no information to support their allegations, and based upon the information provided by Respondent's attorney, was not the party in control of the sale of the property via the Court. All issues related to ethics and professionalism fall outside of the jurisdiction of the Commission and are left to the association level. For these reasons, Counsel finds no violations of the rules or statutes and recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**28. 2022032341**

**Opened: 8/22/2022**

**First Licensed: 4/1/2008**

**Expires: 3/31/2024**

**Type of License: Principal Broker**

**History: 2010 Agreed Order for failure to maintain E&O insurance**

Complainant is a Tennessee resident. Respondent is a licensed principal broker. Complainant takes several issues with Respondent's "drive by" appraisal and alleges due to the errors they had to obtain a full real estate appraisal. Complainant states Respondent marked the street as private instead of public, failed to include their garage, and listed an included house as "excellent" when Complainant stated it is "clearly...actually barely average." Lastly, Complainant states the difference in value is over One Hundred Seventy Thousand Dollars (\$170,000.00). Complainant is requesting the money spent on the full appraisal conducted by a licensed real estate appraiser to be refunded. Complainant provides a copy of the evaluation done by Respondent and appraisal conducted by the real estate appraiser.

Respondent answered the complaint stating they did not perform any services related to appraising nor did they complete an appraisal for the subject property. Respondent states they were hired by

a third party to complete a Broker Price Opinion (“BPO”), which is based on a drive-by viewing with no interior or property access and no measurements. Complainant provided a rebuttal stating they were informed by their lender the Respondent is not an appraiser and this was a BPO. Complainant maintains that Respondent’s work was incorrect, that public records indicate the road by their property is a public road, the overhead imagery show the garage, and that their money was taken for something that is completely worthless. Based on the information provided by Complainant, Counsel believes the root of this complaint relates to issues that fall outside of the jurisdiction of this Commission. It appears that Complainant’s issue is more so related to the work product Complainant paid for through the services they utilized from a third party. Complainant did not directly hire Respondent for this BPO, but even if they did, it appears the issues appear to be more subjective, contractual, and best suited for a civil venue or with the assistance of outside counsel. Therefore, Counsel finds no violation of the rules or statutes by Respondent and recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**29. 2022032571**  
**Opened: 8/22/2022**  
**First Licensed: 8/12/2022**  
**Expires: 8/11/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant and Respondent are licensed affiliate brokers. On August 4, 2022, Complainant alleged that Respondent posted on social media stating they were a “licensed real estate agent”. Complainant states Respondent did not hold a license and is advertising that they are a licensed real estate agent. Complainant provides a screenshot of a social media profile with Respondent’s name and the phrase “licensed real estate agent” and the “property management” listed. Additionally, Complainant includes an image of a house with the caption “Closing Tomorrow!!” and “y’all go check out my new real estate page”. Complainant includes a second social media account with Respondent’s name that lists Respondent as “Real Estate Agent” “[Redacted Tennessee City] Luxury Real Estate” “Property Management” “[Real Estate Firm Name]”. Respondent’s social media name is “RespondentFirstNameRespondentLastName\_RealEstate”.

Respondent answered the complaint on August 18, 2022, stating they were attempting to build their platform and practice different marketing strategies, prior to offering real estate services to the public. Further, Respondent states now they understand they could not market themselves as a licensee until their license was approved, but this social media was an attempt to “get some practice in the realm of social media marketing.” Respondent states to date they have not had any interactions with clients, taken part in any transactions, had any discussions with clients, or offered any real estate services. Respondent states all they lacked was submitting their application materials but had thought by completing their education and passing the exam, they could launch their social media. Upon receipt of the complaint, Respondent changed all their social media until they officially received their license on August 14, 2022.

Upon initial receipt of the complaint, Counsel was able to verify on August 9, 2022, that Respondent additionally added on another social media job networking site that they were a “real estate affiliate broker” with TREC since July 2022. It is clear that Respondent is in violation of Tenn. Code Ann. § 62-13-301 which states, “It is unlawful for any person, directly, or in directly, to engage in or conduct, to advertise or claim to be engaging in or directing the business, or acting in the capacity of a real estate broker, affiliate broker, time-share salesperson or acquisition agent, as defined in § 62-13-102, within this state, without first obtaining a license as broker, affiliate broker, time-share salesperson or acquisition agent, as provided in this chapter, unless exempted from obtaining a license under § 62-13-104.” Though Respondent is now licensed, there was a period of unlicensed activity. Therefore, Counsel recommends a civil penalty of One Thousand Dollars (\$1,000.00) for unlicensed activity.

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

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

**30. 2022031581**  
**Opened: 8/22/2022**  
**First Licensed: N/A**  
**Expires: N/A**  
**Type of License: Real Estate Commission Course Provider**  
**History: None**

Complainant is a licensed affiliate broker. Respondent is a Real Estate Commission course provider. Complainant states they have taken four (4) courses from Respondent that they have advertised on their website as being approved by TREC for continuing education (“CE”). However, after Complainant completed their courses, they were informed their courses were not approved by TREC, but only by a separate jurisdiction. Complainant states they have been denied all their hours taken of Respondent’s courses. Complainant states they are out of money and that Respondent fraudulently continues to advertise their courses as being TREC approved when they are not.

Respondent answered the complaint through their Chief Executive Officer. Respondent states that all the courses completed by Respondent were reported to TREC via email and posted to their CE Broker Portal. Respondent attached their roster submission emails as evidence along with the screenshots of the rosters on the CE Broker Portal for Complainant. Respondent denies they were committing fraud as all courses were TREC approved and valid for CE credits. Counsel finds no violations of the rules or statutes and recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**31. 2022012171**  
**Opened: 4/4/2022**

**First Licensed: 3/6/2000**

**Expires: 8/14/2024**

**Type of License: Principal Broker**

**History: 2009 Letter of Warning; 2021 Letter of Warning; 2021 Letter of Warning; 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance**

On January 29, 2021, Respondent's affiliate broker was suspended for failure to maintain an error and omissions ("E&O") insurance policy. On or about March 24, 2022, the Commission then received a Transfer, Release, and Change of Status Forms ("TREC Form 1") from Respondent choosing to broker Respondent's affiliate broker. Following this action, the Commission administratively opened a complaint against Respondent for failing to adequately supervise the affiliate licensee. Specifically, Respondent failed to ensure that all affiliated licensee maintained continuous errors and omissions ("E&O") insurance coverage. In response, on April 20, 2022, as required by Tenn. Comp. R. & Regs. 1260-01-16(2)(c)(2), if a principal broker releases an affiliated licensee more than one hundred twenty (120) days after suspension, the consent order shall contain a civil penalty of one thousand dollars. Therefore, Counsel sent Respondent a consent order authorizing a One Thousand Dollar (\$1,000.00)

During negotiations, Respondent requested Counsel present this matter before the Commission for reconsideration of the civil penalty. Respondent states they have a signed TREC Form 1 on file for their affiliate broker along with email communication including their office manager surrounding the affiliate broker's release. Respondent further states they never even began to work on the sales floor or take any tours after their E&O was to be renewed, nor did their name appear on any sales reports. Respondent states the affiliate broker never finished their training course. Respondent concludes stating they have practiced being extra careful during their time as principal broker they hope the Commission will take this into consideration since Respondent had a signed physical TREC Form 1 in their possession and believed their affiliate broker was released. Additionally, Respondent states the affiliate broker never worked without a license while they were in good standing. Respondent requests the Commission kindly to waive this complaint.

Counsel can confirm that per TREC records, a TREC Form 1 was opened on March 3, 2020, at around 12:51 a.m. and then cancelled at 7:26 a.m. From Counsel's research, Respondent's affiliate was first licensed on 11/19/2019 there has been no further movement on Respondent's affiliate broker's license, with the license expiring on 11/19/2021. Due to the fact that Respondent believed that their TREC Form 1 had been submitted and they had an executed copy on file and that their affiliate broker did not have any sales and has been expired for over a year, Counsel recommends that Respondent be issued a Letter of Warning in lieu of a civil penalty.

**Recommendation: Letter of Warning.**

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

**32. 2022033541**

**Opened: 8/15/2022**  
**First Licensed: 5/20/1997**  
**Expires: 7/8/2024**  
**Type of License: Principal Broker**  
**History: None**

On January 29, 2021, Respondent's affiliate broker was suspended for failure to maintain an error and omissions ("E&O") insurance policy. On or about August 10, 2022, Respondent's affiliate licensee opened a transaction to pay their E&O suspension fee. However, Respondent's affiliate has yet to date taken any action. Following this action, the Commission administratively opened a complaint against Respondent for failing to adequately supervise the affiliate licensee. Specifically, Respondent failed to ensure that all affiliated licensee maintained continuous errors and omissions ("E&O") insurance coverage. In response, on October 19, 2022, as required by Tenn. Comp. R. & Regs. 1260-01-.16(2)(c)(2), if a principal broker releases an affiliated licensee more than one hundred twenty (120) days after suspension, the consent order shall contain a civil penalty of one thousand dollars. Therefore, Counsel sent Respondent a consent order authorizing a One Thousand Dollar (\$1,000.00) civil penalty.

On November 4, 2022, Counsel received a "Mitigation Letter" from Respondent detailing several health issues of their own and of their spouse over the past four (4) years requesting consideration for their civil penalty to be reduced from One Thousand Dollars (\$1,000.00) to Two Hundred (\$200.00). Counsel has provided a redacted copy of Respondent's letter for the Commission. Respondent states this is their first disciplinary incident in "all 25 years as a Realtor or Broker for 22 years" and they have used all of their savings and had to sell their home to keep up with all of their medical bills. Respondent apologizes for the oversight and seeks forgiveness for their lack of memory in this issue. Respondent has provided a copy of their medical records for the past twenty-four (24) months, the longest the system will permit, including an itemized medical billing. Since Respondent has no disciplinary history and that the Commission has discretion in the civil penalty amount, Counsel recommends the Commission grant Respondent's request and reduce Respondent's civil penalty amount to Two Hundred Dollars (\$200.00).

**Recommendation: Two Hundred Dollar (\$200.00) civil penalty.**

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

#### **TIMESHARES:**

**33. 2022028251**  
**Opened: 8/22/2022**  
**First Licensed: 4/9/2018**  
**Expires: N/A**  
**Type of License: Time Share Registration**  
**History: None**

Complainants are Tennessee residents. Respondent is a timeshare company. Complainants state they stayed and purchased their first timeshare in October of 2017. Complainants state they have not been able to pay the biannual fees, only affording to pay with bonus points, cannot pay down their associated credit card, and have found little value of the purchase and have attempted to get

out of the timeshare since October 2018 as it is a financial burden. Complainants state Respondent informed them there was an associated commission to re-sell their timeshare and Complainants would have to cover the difference in the loan and the commission out of pocket. Complainants detail how they did upgrade and vacation in 2020 and in January 2022 their resale value has not improved since 2018. Complainants state they have received no assistance from Respondent in leaving their timeshare and believe Respondent has been a dishonest organization that preys on at-risk individuals. Complainants are requesting release from their timeshare.

Respondents did not submit a response. As Respondent did not submit a response, Counsel recommends Respondent be assessed a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-313(a)(2).

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

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

### **CASES TO BE REPRESENTED**

**34. 2022013941**  
**Opened: 4/25/2022**  
**Unlicensed:**  
**History: None**

The Complainant appears to be a TREC licensee. The Respondent is an unlicensed out-of-state entity.

The Complainant says the Respondent is “undercutting licensed VLS service providers.” The Complainant claims that the Respondent’s corporate counsel told her that they feel they are exempt from licensure in TN as they “do not have W2 employees in Tennessee.” The Respondent’s website says the Respondent provides “vacation rental management and booking services to over 540 action homeowners in TN.” In addition, the Complainant alleges the Respondent has over 250 listings in their control.

The Respondent’s corporate counsel responded by pointing out that a 2019 TREC complaint was closed after a similar complaint (the complaint was, in fact, similar). The Respondent, however, goes on to say that they are “considering expanding its activities in Tennessee, and to avoid future complaints, [Respondent] is considering pursuit of a broker’s license in Tennessee.” The Respondent provides no real substance and largely relies on what it stated in its response in 2019, which was more robust. That response was the following as summarized by the disciplinary counsel in 2019:

*The definition of “vacation lodging service” is “any person that engages in the business of providing the services of management, marketing, booking, and rental of residential units owned by others as sleeping accommodations or furnished for pay to transients or*



*travelers staying no more than fourteen (14) days.” T.C.A. 62-13-104(b)(1)(C). Respondent states they do not meet this definition for the following reasons:*

- *Respondent’s primary business is the operation of an online booking platform which allows homeowners to list and market their own rental properties, but Respondent does not transact on the property owner’s behalf. Respondent can provide consulting and distribution services—they will assist homeowners with copywriting, photography, and dissemination of ads on their own website and similar platforms—and will also connect property owners to local businesses that can provide on-the-ground services, but they do not provide any maintenance or management.*
- *Respondent does not provide check-in/check-out services or inspect the properties.*
- *Respondent does not transact with any clients; their platform allows renters to transact directly with the property owner.*
- *If services are needed Respondent connects the property owner to a local company that can assist them, but Respondent does not collect any referral fee or other compensation for recommending those providers.*
- *The property owners maintain control over their rates, availability, and property policies.*

The Respondent says they provide “booking” services, which falls within the definition in T.C.A. 62-13-104(b)(1)(C). Apparently, the Respondent does not provide any of the other mentioned services.

**Recommendation: Letter of Instruction to obtain a license pursuant to T.C.A. 62-13-104(b)(1)(C).**

**Commission Decision: The Commission voted to assess a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity. However, should Respondent be licensed within thirty (30) days of receipt of the Consent Order, the civil penalty shall be reduced to Five Hundred Dollars (\$500.00).**

**New Information: This matter was presented to the Commission at its August 2022 meeting. Upon sending the Consent Order to Respondent, Counsel conferred with Respondent’s Counsel. At this time, it was discovered that Respondent does have an active Tennessee firm license and principal broker. Respondent first obtained licensure with the Commission on July 27, 2022. In an effort to reach a settlement of this matter, Respondent’s Counsel submitted the following response for consideration to the Commission:**

*Respondent has achieved compliance in July 2022 through our licensed Tennessee Real Estate Broker, [redacted name], who oversees our operations in the state. We are looking forward to a productive and cooperative relationship with the Tennessee Real Estate Commission in the future.*

**Though Respondent obtained licensure after the complaint was opened in April of 2022, Respondent was licensed in July of 2022. Additionally, the previous complaint opened in**

2019 against Respondent with the same underlying facts was dismissed with no action. Thus, Counsel can see how Respondent may be confused as to whether licensure is required with the Commission when previously, this was not the case. Here, in this complaint, Respondent took immediate affirmative steps to obtain licensure to remedy the issue prior to the complaint being heard before the Commission and just three (3) months after a complaint was opened. Based on these facts and Respondent's good faith efforts, Counsel recommends Respondent be issued a Letter of Warning pertaining to Tenn. Code Ann. § 62-13-104(b) in lieu of a civil penalty.

**New Recommendation:** Letter of Warning.

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

35. 2022015741

Opened: 4/25/2022

First Licensed: 4/17/2002

Expires: 4/29/2024

Type of License: Principal Broker

History: 2020 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance

\*This complaint was opened against the Respondent as the principal broker for a time share sales company. The Complaint against the time share sales company is in "Cases to be represented" below.

In the original complaint, the Complainant said the Respondent hires new employees and allows them to work without an acquisition license. The Complainant said they do this work off site, according to him, inside a nationally recognized store chain.

A TDCI investigator went to all the locations identified in the Complainant's initial complaint. The investigator found one time share salesperson who was not licensed at the time of the investigator's visit to the site. This individual; however, had a license application pending and was later granted a license effective February 24, 2022. The other two individuals possessed valid licenses at the time of the visit.

The Respondent is the principal broker for this particular time share location. The Respondent has responsibility for the assigned time share salespeople.

**Recommendation:** Authorize a formal hearing and Consent Order with a \$1,000 civil penalty for a violation of Rule 1260-01-.04 (Licenses).

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

**New Information:** Counsel conferred with Respondent after sending a Consent Order. The unlicensed individual mentioned in the complaint mentioned above did have an application pending and does currently have an application but is not a timeshare salesperson. The unlicensed individual holds an active acquisition license, which does not require the supervision of a principal broker, or the affiliation of a firm. Tenn. Comp. R. & Regs. 1260-

**01-.04(1) states that no principal broker shall permit a broker, affiliate broker, or time-share salesperson under their supervision engage in real estate business unless issued a valid license and errors and omissions insurance. As the unlicensed individual in this complaint is none of these, Counsel does not find Respondent in violation of any rule or statute and recommends this matter be dismissed.**

**New Recommendation: Dismiss.**

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

**36. 2022018731  
Opened: 5/23/2022  
Unlicensed  
History: None**

The Complainant is a tenant. The Respondent is an unlicensed property management entity. The Complainant, generally, says the property he leases from the Respondent is unsafe. According to him, there are few security lights, and the laundry room does not lock. Additionally, there are a number of maintenance issues. The Complainant makes no mention of the Respondent's apparent unlicensed status.

The Respondent says they are working on correcting the security light timers. Apparently, there are security lights installed, but they have defective timers, causing them to shut off early. There the issue of the license is not discussed.

**Recommendation: Authorize a formal hearing with authority to settle by Consent Order with a \$1,000 civil penalty for a violation of Tenn. Code Ann. § 62-13-301 for unlicensed property management.**

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

**New Information: This matter was presented to the Commission at its August 2022 meeting. Upon sending the Consent Order to Respondent, Counsel was notified Respondent obtained counsel and has sense conferred with Respondent's Counsel. In an effort to reach a settlement of this matter, Respondent's Counsel submitted the following response for consideration to the Commission:**

*The principal owner of Respondent has been licensed as an affiliate broker since at least 2019, and this demonstrates their commitment to comply with licensing laws for real estate brokers in Tennessee. Further, Respondent only manages property for entities in which its principal owner is also a principal owner of the real estate. In other words, Respondent is not managing property for third-parties or individuals who are not connected to Respondent. Respondent only manages property in which its principal is also an owner, either directly or through an entity. The principal owner of Respondent is actively taking steps to obtain their broker's license so that Respondent can be licensed with the State. To that end, the principal owner completed their 30-hour course work for a broker's license on October 20, 2022. They mailed their application for their broker's license to the Commission on October 21, 2022. They have taken active steps to obtain their broker's license so that Respondent can be licensed as a real estate firm. Respondent would ask that*

*the penalty imposed by the commission be reduced to zero, and that Respondent be given additional time to obtain its real estate license.*

**Counsel can confirm that Respondent's principal broker is eligible to obtain their principal broker license that will be required for a firm license, as was explained to Respondent's Counsel. In recent decisions, the Commission has offered unlicensed entities a One Thousand Dollar (\$1,000.00) civil penalty, with the possibility of a decrease to Five Hundred Dollars (\$500.00) should the entity secure licensure within thirty (30) days. This could be a possibility available to Respondent as Respondent's principal owner has taken affirmative steps to remedy the issue. However, Counsel will defer to the Commission's decision in this matter and declines to make a recommendation.**

**New Recommendation: Discuss.**

**New Commission Decision: The Commission voted to issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity to be reduced to a Five Hundred Dollar (\$500.00) civil penalty should the Respondent obtain licensure within thirty (30) days.**

**37. 2020017511  
Opened: 3/30/2020  
First Licensed: 1/14/2016  
Expires: 1/13/2022  
Type of License: Affiliate Broker  
History: None**

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

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

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

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

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

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

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

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

**New Information:** The Respondent contacted counsel on 11/2/22 to explain that the Respondent is leaving the real estate business in Tennessee for a job opportunity in Texas. The Respondent has offered to “release” his license, which may only imply he will retire the license. Counsel has drafted an Agreed Order with a Voluntary Surrender provision. The language will state that if the Respondent decides to practice realty in Tennessee in the future, he will have to re-test as a new applicant, with all license fees applying.

**New Recommendation:** Approve the Agreed Order in which the Respondent voluntarily surrenders his affiliate broker’s license.

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

**Chair Franks adjourned the meeting at 12:25 pm CST.**