



**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 October 13, 2022, at 8:30 a.m. EST at the Farragut Town Hall located at 11408 Municipal Center Drive Farragut, TN 37934. In addition, the meeting was streamed electronically via 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, and Commissioner Stacie Torbett. Commissioner Joe Begley, and Commissioner Kathy Tucker were absent. 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 October 13, 2022, board meeting agenda was submitted for approval.

Motion to approve October 13, 2022 agenda was made by Vice-Chair Diaz, and second by Commissioner Smith. Motion passed unanimously.

Minutes for the August 29, 2022, board meeting were submitted for approval.

Motion to approve the August 29, 2022 minutes was made by Commissioner Guinn, and seconded by Vice-Chair Diaz. Motion passed unanimously.

INFORMAL APPEARANCE

Amy Arrington appeared before the commission with her Principal Broker, Charles Yates, to receive approval for her Timeshare Salesperson license.

Motion to approve Amy Arrington was made by Vice-Chair Diaz and seconded by Commissioner Moffett. Motion carried unanimously.

Angie Pinckney appeared before the commission with her Principal Broker Michael Gray to receive approval for her Affiliate Broker license.

Motion to approve Angie Pinckney was made by Commissioner Smith and seconded by Commissioner Farris. Motion carried unanimously.

Danielle Warner appeared before the commission with her Principal Broker Rustin Randall to receive approval for her Affiliate Broker license.

Motion to approve Danielle Warner was made by Commissioner Torbett and seconded by Vice-Chair Diaz. Motion carried unanimously.

Myrika Madison appeared before the commission with her Principal Broker Louis Leach to receive approval for her Affiliate Broker license.

Motion to approve Myrika Madison was made by Commissioner Torbett and seconded by Commissioner Smith. Motion carried unanimously.

Marquita Starks appeared before the commission with her Principal Broker Janet Dichiara to receive approval for her Affiliate Broker license.

Motion to approve Marquita Starks was made by Vice-Chair Diaz and seconded by Commissioner Smith. Motion carried unanimously.

Brian Sniadanko appeared before the commission with his Principal Broker Robert Salmons to receive approval for his Affiliate Broker license.

Motion to approve Brian Sniadanko was made by Commissioner Torbett and seconded by Commissioner Guinn. Motion carried unanimously.

WAIVER REQUEST

Director Maxwell presented Ms. Gabrelle Borden to the commission seeking a waiver request.

Motion to approve the request was made by Vice-Chair Diaz and seconded by Commissioner Farris. Motion carried unanimously.

Director Maxwell presented Ms. Jessica Ballentine to the commission seeking a waiver request.

Motion to approve the request was made by Commissioner Torbett and seconded by Commissioner Farris. Motion passed 5-2 with Chair Franks, and Vice-Chair Diaz voting against the motion.

EDUCATION REPORT

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

Motion to approve courses O1-O53 was made by Vice-Chair Diaz and seconded by Commissioner Moffett. 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 Smith. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Maxwell updated the Commission on the topics below.

- **120 POST BROKER CE:** Advised the commission that 40 complaints were opened regarding the brokers impacted by the software error, and they were given 90 days to fulfill the CE requirement.

- **ARELLO:** Briefed the commission on take-away points from the Annual conference, which was held in Nashville, TN
- **2023 COMMISSION MEETING DATES:** Discussion was had to move October 2023 meeting up a week to not coincide with Fall Break. Also, to withhold the July meeting due to facility issues.

COMMISSION DISCUSSIONS:

Commission discussed nomination for The Bill Tune Award to past Chairman John Griess. Motion to approve this nomination was made by Vice-Chair Diaz and seconded by Commissioner Smith. Motion passed unanimously.

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 1-62 with the exception of the following complaints, which were pulled for further discussion: **2022019231, 2022019351, 2022021061, 2022016201, 2022023471, 2022023501, 2022020331, 2022025901, 2022004701, 2022006591, 2022018701, 2022027001.**

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

After further discussion by the Commission on complaint 2022019231 motion was made by Commissioner Smith to **issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(1)**, Motion was seconded by Commissioner Farris. Motion carried 5-2 with Commissioner Guinn, and Commissioner Moffett voting against the motion.

After further discussion by the Commission on complaint 2022019351, Vice-Chair Diaz made the motion to **issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care in providing services to all parties to the transaction.** The motion was seconded by Commissioner Smith. Motion carried unanimously.

After further discussion by the Commission on complaint 2022021061, Commissioner Smith made the motion **to accept counsels' recommendation**, motion was seconded by Vice-Chair Diaz. Motion carried unanimously.

After further discussion by the Commission on complaint 2022016201, Vice-Chair Diaz made the motion **to accept counsels' recommendation**. Motion was seconded by Commissioner Guinn. Motion carried unanimously.

After further discussion by the Commission on complaint 2022023471, Vice-Chair Diaz made the motion **to accept counsels' recommendation**. Motion was seconded by Commissioner Smith. Motion carried unanimously.

After further discussion by the Commission on complaint 2022023501, Commissioner Torbett made the motion to **issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(4), failure to provide services to each party to the transaction with honesty and good faith**. Motion was seconded by Commissioner Moffett. Motion carried 4-3 with Commissioner Guinn, Commissioner Farris, Vice-Chair Diaz voting against the motion.

After further discussion by the Commission on complaint 2022020331, Vice-Chair Diaz made the motion **to close and flag this complaint**. Motion was seconded by Commissioner Smith. Motion carried unanimously.

After further discussion by the Commission on complaint 2022025901, Vice-Chair Diaz made the motion to **issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(3)**. Motion was seconded by Commissioner Farris. Motion carried 6-0 Commissioner Moffett abstained.

After further discussion by the Commission on complaint 2022004701, Vice-Chair Diaz made the motion **to dismiss this complaint**. Motion was seconded by Commissioner Guinn. Motion carried 6-0 Commissioner Moffett abstained.

After further discussion by the Commission on complaint 2022023471, Vice-Chair Diaz made the motion **to accept counsels' recommendation** Motion was seconded by Commissioner Torbett. Motion carried unanimously.

After further discussion by the Commission on complaint 2022018701, Vice-Chair Diaz made the motion **to issue a Consent Order downgrading Respondent's license to affiliate broker pending the outcome of the pending criminal matters. Also following the conclusion of the criminal proceedings, Respondent shall**

appear before the Commission in an informal capacity for a licensure determination decision prior to reinstatement of their real estate license.

Motion was seconded by Commissioner Guinn. Motion carried 4-3 with Commissioner Guinn, Commissioner Farris, & Commissioner Moffett voting against the motion.

After further discussion by the Commission on complaint 2022027001, Commissioner Moffett made the motion **to accept counsels' recommendation.** Motion was seconded by Vice-Chair Diaz. Motion carried unanimously.

**Dennis Gregory:
New Complaints**

- 1. 2022019231**
Opened: 5/23/2022
First Licensed: 4/3/2019
Expires: 4/2/2023
Type of License: Affiliate Broker
History: None

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

The Complainant alleges the Respondent “made fraudulent claims” related to the home the Respondent listed. According to the Complainant, the Respondent’s boyfriend owned the home. The Complainant says the square footage was incorrect on the MLS, being listed at 2,546 and only 2,146. The Complainant says the 2,146 was found at closing, but she doesn’t say where. The Complainant also claims there were drainage problems, incorrect GFCI wiring, and exposed facia after the vent screens in the attic fell off. The Complainant also says that the Respondent and boyfriend had flipped the home “together,” which should have prompted the need for a personal disclosure statement.

The Respondent says that she went off the real estate assessment data when she reported the square footage. The Respondent goes on to say that she is not sure where the Complainant got the smaller number. Further, if there was a problem, the Complainant had plenty of time before closing to raise the alleged inaccuracy. As to the other items related to the home’s physical structure, those items were the responsibility of the seller as opposed to the listing agent. Regarding the personal disclosure statement, all the sale documents list only the Respondent’s boyfriend as

the owner. If the Respondent was not married to the seller at the time, it is arguable that no personal interest disclosure was required.

Recommendation: Close.

Commission Decision: The Commission voted to issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care in providing services to all parties to the transaction, specifically as it relates to personal interest disclosure.

2. **2022019351**
Opened: 5/23/2022
First Licensed: 12/3/2002
Expires: 12/4/2022
Type of License: Real Estate Broker
History: None

The Complainants are the sellers. The Respondent owns the investment entity acting as the buyer.

The Complainants say the Respondent made an offer to buy their home as an investment. It appears there was a listing agent working for the Complainants. Additionally, there was a buyer's agent working for the Respondent's investment company. On May 6, 2022, the Complainants say the Respondent rescinded his offer to purchase their home. All parties signed a mutual release. Later, however, the Complainants say they found their home on a Facebook site listed as a rental. The Complainants say the site was created before the rescission of the offer was made, but that it was also still active four days after the mutual release. There is no discussion as to why the deal fell through.

The Respondent says that he told the Complainant's listing agent that "during my 10 days due diligence I will do video to find contractors for estimate and future tenants..." He says that he did not take any application fees or deposits from any prospective tenants during the period of due diligence. The Facebook site is now down.

It appears there was never an express agreement from the Complainants to advertise their home prior to closing. The Respondent, however, was acting in his capacity as a buyer rather than a licensee in this instance. As a practical matter, the Respondent should have exercised better judgement given his knowledge of the business as a

broker; however, there does not appear to be authority to discipline him as a buyer in this scenario.

Recommendation: Close.

Commission Decision: The Commission voted to issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(1), failure to diligently exercise reasonable skill and care in providing services to all parties to the transaction.

3. **2022020031**
Opened: 5/23/2022
First Licensed: 12/20/2007
Expires: 12/19/2023
Type of License: Affiliate Broker
History: None

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

The Complainant says she placed her property on the market without using an agent. The Respondent's buyers made an offer that later turned into a bidding war. The Respondent's buyer won out since they offered to close sooner. The contract was binding as of April 27, 2022, with closing on May 13. The buyer paid \$7,500 earnest money. The Complainant says the Respondent called on May 5 and told her that her buyer needed to push the closing until the end of May since "he (buyer) was going to lose money on the date..." The Complainant claims she told the Respondent that was not acceptable since the earlier closing date was why her buyer won the contract. An amendment was done to move closing to May 19, but then a few days after that the Respondent allegedly called and told the Complainant her buyer was "sick."

The Respondent then provided a mutual release, giving the earnest money to the buyer. The Complainant says she refused to sign with the buyer getting the earnest money. Later, a notice of termination was also sent to the Complainant. The Complainant says an earnest money check was received; however, it bounced due to a stop payment order. The Complainant says the Respondent advised her client "incorrectly."

The Respondent says that her buyer fell ill on May 5. The buyer allegedly told the Respondent that he would not be able to close or buy any home. The Respondent says she advised the Complainant of this immediately, so she could activate any

back-up offers. The Respondent says she told her buyer the earnest money was non-refundable.

There is no evidence the Respondent attempted to steer the buyer in the wrong direction or tell him he was entitled to the return of the earnest money (he was not). The mutual release and termination are signed only by the buyer. The Complainant is free to pursue the buyer for the earnest money if it is not forthcoming.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

4. **2022015711**
Opened: 5/23/2022
Unlicensed:
History: None

The Complainant is a former tenant. The Respondent is an out-of-state property management company.

The original complaint stemmed from a disgruntled tenant that was sued by the Respondent for past due rent. The Complainant counter-claimed against the Respondent but lost. This complaint was opened after no license was initially located for the Respondent. After investigation, the Respondent has a licensed principal broker who works in Tennessee.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

5. **2022019591**
Opened: 5/23/2022
First Licensed: 4/16/1997
Expires: 11/11/2022
Type of License: Real Estate Firm
History: None

The Complainant is a resident in a HOA. The Respondent is a real estate firm.

The Complainant says that she believes she is being targeted as an elderly person in her HOA. The Complainant alleges the Respondent threatened to place a lien on the Complainant's property for failure to pay HOA dues. Later on, the Complainant says that a lien was placed on her property.

The Respondent says the Complainant owns a home that is part of a HOA. The Respondent goes on to say that all members of the HOA are required to pay these dues-not just the elderly residents. The Respondent claims the Complainant pays her dues "on occasion," however, these infrequent payments have built up late fees and outstanding dues.

Overall, it appears the Complainant is being treated no differently than other residents. The Complainant has fallen into arrearages and a lien is the typical method by which an HOA protects its interests.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

6. 2022017641
Opened: 5/31/2022
First Licensed: 12/6/2019
Expires: 12/5/2023
Type of License: Affiliate Broker
History: None

The Complainant is the seller. The Respondent is the buyers' agent.

The Complainant says that the Respondent brought forward an offer that, ultimately, "resulted in lost prime time spring listing opportunity." The Complainant alleges that during the 5-6 days while the contract was pending, that other buyers were discouraged from making offers. The earnest money was never paid, and the buyers terminated the contract.

The Respondent says she showed the house to the buyers on April 25, 2022, who made an offer the next day. The Complainant accepted. The Respondent claims the buyers wanted to drive in on April 29 to look at the house and deliver the earnest money. The buyers conducted their own inspection on April 29 at which time they

found water damage on the dining room floor and an older than expected HVAC system. After seeing this and communicating the same to the listing agent, the buyers terminated the agreement. The agreement allowed for termination if the inspection was not to the buyers liking.

In rebuttal, the Complainant says they released the buyers because they were not satisfied with the “quality of the schools” in the area. There was no discussion about this anywhere else in the Complaint. In any event, the Complainant is upset that the house went off the market, temporarily, to allow the buyers to do the inspection. In doing so, the Complainant theorizes he lost out on other potential offers. This issue would appear to relate to his own listing agent rather than the buyers’ agent. As a practical matter, any time a home is pending it could potentially lose other offers.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

7. **2022019141**
Opened: 5/31/2022
First Licensed: 8/22/1994
Expires: 12/31/2004 (Expired)
Type of License: Affiliate Broker
History: None

It is not clear what role the Complainant plays. The Respondent is an attorney handling the sale of real property as part of an estate.

The Complainant appears to say that the proceeds from the sale of the subject property were not correctly divided among the heirs.

The Respondent says he has no idea who the Complainant is. According to the Respondent, the seller died before closing, leaving the seller’s mother and brother as the remaining heirs. Somehow, these heirs got crossways with the Complainant which led to this complaint. The Commission has no jurisdiction over this Respondent. Further, it does not appear the Respondent has acted in any nefarious manner.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

8. **2022020891**
Opened: 5/31/2022
First Licensed: 10/6/2003
Expires: 12/10/2024
Type of License: Real Estate Broker
History: None

The Complainant is the buyer. The Respondent is the buyer's agent. *This complaint is directly related to #9 below.

The Complainant hired the Respondent to find a home in Tennessee as he was relocating from Indiana. The Complainant says that he was shown eight different homes, not by the Respondent, but rather by the Respondent's associates. The Complainant also says he was rejected on two separate listings where he made offers. The Complainant, apparently, thought the Respondent and the co-agent were not working hard enough, so he told them he was terminating their services. The Respondent agreed, however, told him that she would release him for \$1,500.

The Respondent says that on the first property, the Respondent offered \$244,000 conventional financing with inspection and appraisal contingencies. The asking price was \$239,000. The offer was later rejected for \$245,000 all cash. The second listing ended after the parties could not agree on repairs. Also, the Complainant offered only asking price and that the seller pay \$5,000 in closing costs with a \$875 home protection plan. There were also problems with "Dotloop" in which the Complainant struggled. In the latter stages of the search, the Complainant wanted to give the seller only a five-hour window in which to accept or reject. The Respondent says she told him that was not a reasonable request to make. The Respondent says the \$1,500 in which to release the Complainant is much less than the agreement states. She claims that much time was put in on trying to locate the Complainant a suitable home. The Seller says she tried to stress the nature of the sellers' market.

While it does appear that the Respondent was out on a previously scheduled vacation for part of the time, the Respondent had associates working with the Complainant. The Respondent could not make all accommodations; however, the Respondent acted with overall reasonable skill and care.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

9. **2022020961**
Opened: 5/31/2022
First Licensed: 1/23/2003
Expires: 1/1/2023
Type of License: Principal Broker
History: 2018 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

The Complainant is the buyer. The Respondent is the principal broker for the buyer's agent in #8 above.

*The facts are identical to those described in #8. There is nothing to support the contention the Respondent failed to supervise the affiliate broker. The Respondent had communicated with the Complainant on one occasion when the relationship between the affiliate broker and Complainant began to suffer. He explained that the market was extremely competitive and that the affiliate would continue to work for him.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

10. **2022021431**
Opened: 5/31/2022
First Licensed: 10/21/2019
Expires: 10/20/2023
Type of License: Principal Broker
History: None

*This complaint was opened against the Respondent for an advertising violation on the part of an affiliate broker.

The original complaint included a picture of the affiliate broker's sign that said: "Not technically for Sale...but make us an offer. For the right price we'll change our mind." There were two phone numbers on the sign; however, there is no mention of a realty firm or office.

The affiliate broker says they hired an out of state marketing entity to produce the subject sign. The affiliate broker explained, "I technically was not selling anything which is why I just had my name and number." The Respondent says the sign was published before they noticed the company logo was not on the sign.

The affiliate broker recently signed a Consent Order with a \$500 civil penalty.

Recommendation: Authorize a formal hearing for violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(b) and authorize informal settlement by Consent Order in the amount of \$1,000 for failure to supervise the affiliate broker's advertising.

Commission Decision: The Commission accepted counsel's recommendation.

**11. 2022019191
Opened: 6/6/2022
First Licensed: 3/30/2021
Expires: 3/29/2023
Type of License: Affiliate Broker
History: None**

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

The Complainant went under contract to buy the subject home on December 29, 2021. The Complainant was not working with a buyer's agent. As best can be determined, the parties closed, and the Complainant took possession. The Complainant says that an "invalid" certificate of occupancy (CO) was issued by the builder. Consequently, the Complainant is now blaming the builder and the Respondent. The Complainant alleges that the local codes office told the Complainant that the house would have to be demolished before a CO could be issued.

The Respondent says he was not aware of any problems with the CO-not from the builder/seller or anyone else. These issues would not be ones the listing agent would

be responsible for as they are builder or title company matters. There is no evidence the Respondent was aware of any problems related to the home such that he failed to exercise reasonable skill and care.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

12. 2022021061

Opened: 6/6/2022

First Licensed: 1/25/2017

Expires: 1/24/2023

Type of License: Affiliate Broker

History: None

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

The Complainant says her buyers went to a home on their own to view the Respondent's listing. The Complainant says her buyers "were unaware that they should not contact a listing agent directly to view a home..." The Complainant says her buyers were told by the Respondent that a contact had been pending; however, it was later cancelled due to a title problem. The Respondent also supposedly told the buyers that there would be a different price if they were working with an agent vs. no agent.

When the Complainant then spoke to the Respondent, the Respondent advised her that the title problem dealt with the ex-wife's maiden name and her i.d. He allegedly said his title company could clear up the matter. Later, the Complainant says she spoke to the previous buyers' agent who supposedly told her that the reason the first contract fell through was because the "Seller's Girlfriend [new wife] was attempting to pose as the Seller's ex-wife and sign documents on her behalf." The title company would not close the file because of this belief, although it does not appear anyone could ever confirm this attempt. The Complainant's buyers never made an offer on the home. This complaint appears to be born out of what the Complainant perceives to be as dishonest dealing on the part of the seller and Respondent related to the listing.

The Respondent says that the Complainant's buyers presented themselves as being unrepresented by any agent. He says he gave them a price that reflected what would be a single-agent transaction. After the buyers left the house, the Respondent says he got a call from the Complainant who explained that she was, in fact, representing the buyers.

As to the prior contract on the house, the Respondent says that it fell through due to the seller not being able to physically locate his ex-wife. The Respondent says the seller told him that he was sorry and "did not consider my new wife not being on the deed. Please let everyone know I will work on locating my ex-wife and get her to come in to sign." The buyers did not want to wait around for the seller to locate the ex-wife, so they terminated the deal (as one would expect). The Respondent says he relayed all of this to his title company who told him the seller would have to locate the former spouse before a closing could take place.

If the seller and his new wife were attempting to have the new wife sign on behalf of the former spouse, at least one thing was necessary: a forged identification card. At some point, the new wife would have had to applied for a new drivers' license or other identification in the name of the former spouse. This is not impossible but is a bit far-fetched. The Respondent seems to have had no knowledge of the seller's previous marriage until after the first contract fell through. Possibly, the seller told the Respondent as much as he wanted him to know. It does, however, beg the question as to the wisdom of keeping the house on the market after the first contract fell through due to the need for the former spouse's signature.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2022021461
Opened: 6/6/2022
First Licensed: 2/2/1993
Expires: 6/7/2023
Type of License: Principal Broker
History: None

The Complainants are the buyers. The Respondent is the listing agent.

The Complainants purchased a home using an agent in January 2021. The Complainants claim as of May 2022 that they have not lived a day in the house due to septic line problems. Apparently, the home had a defective septic tank that caused sewage to back up into the house. The Complainants claim the Respondent was aware that the septic tank had not been pumped. Additionally, the Complainants claim that because they were using a USDA loan, the Respondent believed they were very unsophisticated and took advantage of them. According to the Complainants, they have hired an attorney; however, a lawsuit has not yet been filed.

The Respondent says that prior to the Complainants making their offer in December 2020, one of the Complainants was at the property when the septic tank lid was uncovered waiting for a contractor to come and pump the tank. The seller had arranged for the pumping since it had not been pumped out during the course of their ownership. The Respondent goes on to say that the Complainants waived a home inspection. The property disclosure form indicated that the seller had not resided in the home since July 2019 with the home being a rental from that time until listing.

The Respondent says that she was not responsible for hiring the contractor who allegedly left the field lines “clogged and collapsed” as is explained in an email between the contractor and a septic specialist. While it now seems uncontroverted that the lines were dug up but never repaired, the Respondent had no prior knowledge of this.

The home’s septic issue is ultimately a matter the seller was responsible for, if anyone. The Respondent appears to have only known what the seller told her. There is nothing that supports the contention that the Respondent paid the contractor, thereby alerting her to problems with the septic system.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

14. 2022022011
Opened: 6/6/2022
First Licensed: 3/23/2020
Expires: 3/22/2024
Type of License: Affiliate Broker
History: None

The Complainants are property owners. The Respondent is the listing agent.

The Complainants claims to own an easement across a piece of property the Respondent had listed for sale. They claim they wanted to make the Respondent aware of the presence of the easement. Supposedly, they asked another agent to review the MLS for the subject property and claims the agent told her the MLS did not mention the easement. The Complainants think the Respondent is acting unethical.

The Respondent says she received a phone call from one of the Complainants out of the blue on May 6, 2022, about one of her new listings. The Respondent claims the Complainant wanted to meet and show her the property lines. At the time, the Respondent was out of town, so she contacted her seller to inquire further. The seller told the Respondent that the Complainants had alleged for some time that an older building at the back of the property was somehow on the Complainant's property. Apparently, this building had been on the subject property for years and was "grandfathered in." The Respondent says she doublechecked the tax information to make sure the correct property measurement was on the MLS. The Respondent says that at no time did either Complainant ever mention the word "easement" over the phone.

Later, the Respondent received a letter (presumably from an attorney) that indicated a claim about an easement and some reference to prior litigation. The Respondent informed her seller; however, the seller claimed to have no knowledge of the easement or even what an easement entailed. By the time the letter was received, the property was already under contract. As a result, the Respondent contacted the buyer's agent and let them know there was some dispute regarding an alleged easement. The copy of the deed for the property attached to the complaint makes no mention of any easement.

There is no evidence the Respondent or even the seller had notice of this alleged easement. Whatever the Complainants believe they possess will have to be sorted out with the owner or through litigation. If the easement does exist, then it has already gone through one sales transaction prior to the subject one.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

15. 2022016201
Opened: 6/14/2022
Unlicensed
History: None

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

The Complainant says they have an apartment that needs repairs and cannot get the Respondent to return phone calls. The Complainant makes no mention of the unlicensed status.

An investigator located the owner who claims also to be a licensed broker. It was never clear if the broker worked for the Respondent or not or whether he had any affiliation with the Respondent. It appears the owner handles the management of the subject apartments, making a license unnecessary. The Complainant should also contact the local codes office if the Respondent is not providing a habitable residence.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

16. 2022018541
Opened: 6/14/2022
First Licensed: 2/16/2021
Expires: 2/15/2023
Type of License: Affiliate Broker
History: None

The Complainants are the sellers. The Respondent is the buyers' agent.

The Complainants claims the Respondent came to their house at 7:50 am the day of closing to conduct a final walk through. Closing was supposedly at 10:30 am. The Complainants claim the walk through was unannounced, causing a good deal of unnecessary inconvenience according to them. The Complainants feel they should be compensated (by someone) for the inconvenience.

The Respondent says he apologized to the Complainants when he showed up on the morning of closing with his buyers. The Respondent texted the listing agent that he had not heard back from the Complainants at which time the listing agent suggested he could “knock on the door.” The purchase and sale agreement provided for a final inspection of the property “within 2 days prior to closing date.” The Respondent was within that window, albeit, on the day of closing. The Respondent also claims he arrived at 8:39 am as opposed to 7:50 am. The buyers had a right to make the final inspection per the contract.

While the walk through was somewhat early, the listing agent appears to have suggested this to the Respondent. Further, while it was inconvenient, the buyers had a right to conduct a final walk through. Finally, any compensation will have to be dealt with outside the Commission’s purview.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

- 17. **20220212141**
 - Opened: 6/14/2022**
 - First Licensed: 3/4/2020**
 - Expires: 3/3/2024**
 - Type of License: Affiliate Broker**
 - History: None**

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

The Complainant says she hired the Respondent and the Respondent’s father as co-brokers in the search for a house beginning in November 2021. The Complainant claims the father made a racist remark at some point during a showing. Specifically, he allegedly said that since her dog’s fur was black, the dog would not be welcome in the neighborhood where the home was situated (the Complainant is Caucasian). The Complainant says she “took a hiatus” from working with the Respondent and the father as she was turned off by the remark.

Later, the Complainant re-engaged with the two to make an offer on a different home. In this instance, the Complainant, apparently, had a radon test completed, however, the Respondent supposedly told the Complainant the test was not important. In another home, the Respondent allegedly told her that hollow steel jacks

supporting the floor was not uncommon and advised to make an offer despite her misgivings about the structure. Finally, during a phone call with the Respondent, the Complainant says the father suddenly broke into the conversation (likely the phone was on speaker) and told her that a “house doesn’t have to meet current code if it met the code of the year in which it was built.” In this instance, the Complainant claims the house was 80 years old. The Complainant wanted to be released; however, the Respondent or principal broker would not release her given all the time spent on the home search. It appears the agreement has now expired (May 31, 2022).

The Respondent says she showed the Complainant homes from September 2021-April 2022 with multiple offers. The Respondent says the Complainant got all the inspections she was comfortable with. She claims the relationship soured after her principal broker would not release her. The Respondent goes on to say that the Complainant’s bank in Maryland offered a discount if she uses a realtor they refer. Consequently, the Complainant thought she would get money back.

The parties eventually just did not work well together, although it does not appear the Respondent breached her duty of loyalty or failed to exercise reasonable skill and care. As to the agency agreement, the Respondent appears to have done a good deal of work for the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

18. 2022023471
Opened: 6/14/2022
First Licensed: 4/16/2018
Expires: 4/15/2024
Type of License: Affiliate Broker
History: None

The Complainants are the buyers. The Respondent is the listing agent.

The Complainants say they purchased a home listed by the Respondent. The Complainants were out-of-state when they made the initial offer. The Complainants were also unrepresented in the transaction. The Complainants say that when they asked about dual representation, the Respondent told them, “Technically once a listing is provided, I represent the seller. I promise you are not unrepresented in how

I will work for you. It just must be like that on the form.” The Complainants refer to the Respondent as “our buyer’s agent” in the complaint summary.

After the closing, the seller (who was also the Respondent’s ex-husband), needed more time to clear out his personal belongings. After the 14 days lapsed, the seller’s belongings were still in the house. The largest item, apparently, was the seller’s hot tub which the Respondent later attempted to sell to the Complainants.

The Respondent says the seller had an illness and an injury during the time he was supposed to move his personal belongings out. The Respondent claims that the hot tub was removed before the Complainants arrived from California. The Respondent goes on to say that she handled some of the Complainants’ financing to help them get in the house.

Overall, the Respondent’s actions relative to the seller’s personal belongings were handled with reasonable skill and care. Ultimately, the Respondent could not control the seller’s ability to get all his stuff out of the house. The Respondent, however, incorrectly communicated her role relative to the Complainants. The agency forms clearly stated that the Complainants were unrepresented, and the information she communicated to the Complainants gave the wrong impression. A letter of warning or continuing education may be appropriate here.

Recommendation: Letter of Warning for failure to exercise reasonable skill and care in violation of T.C.A. 62-13-403(1).

Commission Decision: The Commission accepted counsel’s recommendation.

**19. 2022022821
Opened: 6/14/2022
Unlicensed
History: None**

The Complainant is the tenant. The Respondent is a vendor for a condo community.

The Complainant claims to live in a condominium unit in which the Respondent has some involvement. In April 2022, a fire allegedly broke out in one of the condos, causing the Complainant and some other residents to relocate for a time. Supposedly, the Respondent told the Complainant they could get Red Cross assistance but then the Red Cross declined as the building was still habitable, at least according to them.

Overall, the Complainant says the property management has just failed to communicate effectively.

The Respondent says they are not the property management entity for the subject condos. Instead, they claim to be a vendor for the condo association. Further, the Respondent says the Complainant does not rent from the association (likely, the Complainant pays rent directly to the owner). In any event, the Respondent says that the fire marshal's office is still (or was) investigating the matter to determine what, if any, structural damage existed. Once that is complete, the residents will be free to return.

The Respondent is not subject to the Commission's jurisdiction as they are only a vendor. The entity that provides property management services to the condo association does, in fact, possess a TN real estate firm license.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

20. 2022021591
Opened: 6/20/2022
First Licensed: 8/8/2017
Expires: 8/17/2023
Type of License: Affiliate Broker
History: None

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

The Complainant alleges the Respondent has told "multiple people" that the Complainant is HIV positive. The Complainant claims the Respondent has told other brokers and loan officers.

The Respondent says the allegations are not true. She claims she did not divulge any information concerning the Complainant's health status and further claims she was not aware the Complainant was HIV positive. The Respondent goes on to say that the Complainant's problem with her is part of a larger disagreement with another licensed broker in her realty firm.

This complaint would be better handled by a realtor's association as it does not involve a real estate transaction or a criminal conviction by any licensee.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

21. 2022021841

Opened: 6/20/2022

First Licensed: 2/12/2009

Expires: 2/11/2023

Type of License: Affiliate Broker

History: None

The Complainant is the buyers' agent. The Respondent is the listing agent.

The Complainant says her buyers believe the sellers are in breach of contract as it relates to the offer the buyers made on the subject home. The Complainant claims her buyers accepted a counteroffer stating that "the seller reserves the right to continue to market the property until all contingencies are removed, with giving 48 hours, buyer first right of refusal to remove contingencies other than financing if seller should receive an acceptable offer during inspection process." This occurred around May 19-20, 2022.

The Complainant says the Respondent gave them notice that her buyers had 48 hours to remove their contingencies, or the sellers were going to go with a better offer. The Complainant says her buyers sent the "form RF624" to the sellers, waiving the subject contingencies within 48 hours of receiving the Respondent's notification. She also claims they have proof the Respondent received the form (not clear what proof). Despite this, the sellers went with the other offer. Later in May, the buyers retained an attorney with a view toward prompting specific performance of the contract.

The Respondent largely agrees with the Complainant's timeline; however, she disagrees that she ever received the buyers' waiver of contingencies within the allotted 48 hours. The Respondent contends the Complainant never emailed the buyers' RF624. Therefore, she could not present the form to the clients. When the Complainant and Respondent finally spoke by phone, the Respondent asked for the form so she could present it to the seller even though the 48 hours had expired by

that time. The Respondent says her buyers declined as they had not received the form until after the 48 hours had lapsed and that the buyers now wanted the sellers to cover the closing costs. As of June, the buyers and sellers executed a mutual release and the buyers' earnest money was returned.

Ultimately, unless the buyers or the Complainant can show that the Respondent received the form, there was no failure on the Respondent's part.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

22. 2022022521

Opened: 6/20/2022

First Licensed: 5/2/2005

Expires: 12/3/2023

Type of License: Affiliate Broker

History: None

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

The Complainant says she has been working with the Respondent to list a house in Tennessee since August 2021 (listing included the Complainant and her ex-spouse). The Complainant now resides in Texas. Apparently, there were two listing agreements-one signed in August with a 5% commission and then another with 6% that the Complainant says was forged by the Respondent despite it having both sellers' digital signatures.

The house sold in May 2022. The Complainant says that the "closing disclosure" was emailed to the Respondent for review and clarification of a fee to a real estate transaction coordinator service in the amount of \$6,250. The Respondent supposedly confirmed that the fee would be taken from her commission. The closing occurred; however, the Respondent allegedly texted the Complainant saying that she was not paid the "full commission," and that the title company would be sending them something to reverse the wire for the difference. The closing attorney weighed in and determined that the Respondent had reviewed the settlement statement and approved it as is. In his opinion, the Respondent was entitled to no additional money. The Complainant says the Respondent is only entitled to a 5% commission and no other monies are to be paid.

The Respondent provided a snapshot of the invoice in which it states the “Real Estate Transaction Referral Fee” was 1% and the “House Lens Photos” were \$400.00. As best counsel can tell, the Respondent provided the invoice to the Complainants months before closing via text. The same text also explained that the 1% would come out of the proceeds. It appears the Respondent forwarded the invoice to the title company with the intent that the title company would cut a check to the real estate transaction coordinator.

As to the allegation regarding the forged signatures, the signatures were done through “Dot Loop.” It appears a forgery of this nature would be difficult, particularly with two sellers. Possibly, the Complainant signed the document in a quick fashion and did not later recall signing it seven months after the fact. Further, if the second listing agreement was forged, it seems odd that the ex-spouse did not lodge an additional complaint. Finally, this is largely a dispute over a commission, although neither party seems to be actively taking any steps to do anything about it (lawsuit, realtor’s association, etc.). As to getting the real estate transaction coordinator paid, the details of such were in a text from the Respondent to the Complainant.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

- 23. 2022023501**
Opened: 6/20/2022
First Licensed: 5/16/1996
Expires: 2/12/2024
Type of License: Affiliate Broker
History: None

The Complainant is the buyers’ agent. The Respondent is the listing agent.

The Complainant says the Respondent’s seller (who is also the Respondent’s son) signed a contract accepting his buyers’ offer on June 3, 2022. The buyers paid earnest money of \$2,000 on June 6. Supposedly, the Respondent emailed the Complainant saying he had more offers on the property and asked if the buyers could offer “270,000” as some of the offers were better. During this time, the Complainant

says the Respondent did not change the status on the MLS to “pending.” She claims to have filed a complaint with the local realtor’s association because of this.

The Complainant and buyers moved forward with the inspection and appraisal on June 7. The Complainant says the last text message he received from the Respondent was June 8, saying his sellers were not in agreement to sell and to release the earnest money. The Complainant claims the Respondent advised his sellers to breach the contract for more money. The Complainant takes the position the contract is/was binding.

The Respondent provided a purchase and sale agreement form that shows two sellers as opposed to one. One is a corporate entity holding company and the other is the Respondent’s son, individually. The Respondent says the “offer was never finalized, and the complainant is misconstruing the facts.” He says the contract was only in its “negotiating stage” and not a binding offer as it contained only one of the sellers’ signatures. Based on the documents attached to the complaint file, the contract bears only one of the sellers’ signatures. The sellers likely identified an easy out here as the parties (minus the other seller) had agreed to make some upgrades in the form of granite countertops and new paint (\$16,000)-not to mention the higher offers from other potential buyers. Regardless of the reason, the contract was not complete/binding if the other seller had not consented to the terms.

Recommendation: Close.

Commission Decision: The Commission voted to issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(4), failure to provide services to each party to the transaction with honesty and good faith.

24. 2022023581
Opened: 6/20/2022
First Licensed: 6/22/2020
Expires: 6/21/2024
Type of License: Affiliate Broker
History: None

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

The Complainant says the Respondent is a property management firm that appears to be unlicensed.

The Respondent is licensed; however, the Respondent claims to own all the properties listed for rent. As such, the Respondent is not required to possess a license (although he does). The Respondent does not appear to be acting as a third-party broker in any real estate transaction.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

25. 2022024251
Opened: 6/20/2022
First Licensed: 1/5/2017
Expires: 1/4/2023
Type of License: Affiliate Broker
History: None

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

The Complainant claims he received a showing request through "ShowingTime" for 6:45 p.m. on June 14, 2022. The Complainant says the Respondent brought his clients to the house at 2:13 p.m. while the Complainant was working from home. The Complainant says he met the Respondent at the door at which time the Complainant says he told the Respondent he had confirmed for 6:45 p.m. that evening. The Respondent supposedly said that he had requested a cancellation of the 6:45 p.m. time and had requested the earlier time. The Complainant believes there may have been a glitch with "ShowingTime." The Complainant is largely upset because the Respondent's clients did not even go in the house after he got himself and his family out of the house in a rushed manner.

The Respondent says that he was not aware of any problems. He says that there was some question about which showing service was being used. The Respondent goes on to say that his clients parked their cars in such a way as to allow the sellers to leave the house. The Respondent says he and his clients walked the outside of the property but did not enter.

This appears to be all a result of some problem with the showing service as opposed to anything the Respondent failed to do.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

26. 2022020241

Opened: 6/27/2022

First Licensed: 4/28/2015

Expires: 12/2/2023

Type of License: Principal Broker

History: 2022 Consent Order for Advertising Violations

The Complainant is the buyers' agent. The Respondent is the principal broker for the listing agent.

The Complainant alleges the buyers' agent commission was offered in the MLS as 2.25%. The parties went under contract as of April 5, 2022, at which time the buyer's agent commission was changed to 2%. The Complainant says he pointed this out to the Respondent and told him he would be lodging a complaint with the local realtor's association. All documentation contained with the complaint file indicates a "2%" commission; however, it appears uncontroverted that one MLS did state 2.25%. Closing occurred on or about May 12.

The Respondent says that one of the agents on his team listed the property as offering 2% to the buying agent in one MLS system, but mistakenly entered 2.25% into another realty association MLS (the Complainant, of course is relying on the MLS with the incorrect commission amount). The Respondent claims he told the Complainant that the 2.25% was an administrative error.

The crux of this complaint is a commission dispute which is better addressed by the local realtor's association, particularly given that a complaint has already been lodged with the association. Additionally, since the filing of the complaint, the Complainant has requested to withdraw the complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

27. 2022020331

Opened: 6/27/2022

**Unlicensed
History: None**

The Complainant is the listing agent. The Complainant is an Atlanta, GA-based real estate investor and Georgia real estate broker but unlicensed in Tennessee.

The Complainant alleges the Respondent “hijacked our active listing for [address] on loopnet.com...” The Complainant says this listing was done without his permission. In addition, the listing on loopnet.com presents the subject commercial listing as “100% leased” when the property is supposedly vacant. It is unknown whether the owner of the property may have had some communication with the Respondent.

The Respondent did not respond as it appears he was never located (not required to respond as he is not a TN licensee). Given the likely difficulty in obtaining service of process on the Respondent, a letter of warning advising the Respondent to cease and desist such activity may be more practical.

Recommendation: Letter of Warning for unlicensed activity in violation of T.C.A. 62-13-401.

Commission Decision: The Commission voted to close and flag this complaint.

**28. 2022020751
Opened: 6/27/2022
First Licensed: 3/6/1997
Expires: 1/2/2024
Type of License: Affiliate Broker
History: None**

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

The Complainant says she met with and signed a listing agreement with the Respondent on April 7, 2022. The Complainant claims she asked the Respondent if the subject property could be re-zoned to commercial to get a better sale price. Supposedly, the Respondent told her that it was a “costly” endeavor. The Complainant says she later found out the process was neither difficult nor costly, although there is no discussion as to where she got that information. The Complainant alleges she had quoted the subject property at \$275,000 to some

interested buyers before the Respondent got involved. The Respondent allegedly told her that \$217,000 was a better price being closer to the tax appraisal. Eventually, the parties verbally agreed to list the property at \$229,000 with a 3% commission to the Respondent.

After three days, the Complainant says the MLS was too generic and had only one picture of the home. The Complainant then decided to part ways with the Respondent. Following this, the Complainant says the Respondent called the Complainant's daughter and let the daughter know he had been fired (the daughter had used the Respondent's services previously and referred her to the Respondent). Finally, the Complainant says the 3% commission was increased to 5% without her knowledge.

The Respondent says much of what the Complainant said is false. He explains that the Complainant had an appraisal done and then insisted on a price that he believed was unrealistic. He goes on to say that the Complainant called him the day after the property was listed and wanted to cancel the listing. As to the commission, he says that he offered a reduced commission after the Complainant's daughter had referred her to him. Apparently, the 3% commission was only verbal and the Respondent likely thought more work would be involved, so he noted the commission as 5% in the listing agreement. The Complainant signed the listing agreement with the increased commission percentage.

Ultimately, the parties were never on the same page and were not going to work well together. While there are no photos of what the MLS looked like, the property had only been on the market 1-2 days. Arguably, the parties could have updated the MLS to the Complainant's liking with additional time; however, the Complainant opted to terminate the contract. Up to that point, the Respondent appears to have exercised reasonable skill and care.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

29. 2022025331

Opened: 6/27/2022

First Licensed: 12/1/2016

Expires: 11/30/2024

Type of License: Principal Broker

History: 2018 Consent Order providing cash rebates in conjunction with a real estate transaction

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

The Complainant says she attempted to schedule a showing at the Respondent's listing on two occasions; however, she was unable to do so. According to the Complainant, one of the phone numbers on the MLS was out of service. In addition, the Complainant claims to have had trouble accessing the website link. The Complainant's son (who is supposedly a computer coder) says the link address is similar to that which computer hackers use. The Complainant also says the home has been on the market for 304 days, which seems to her as extraordinarily long for the market. The Complainant believes "something is amiss" with the listing. As an aside, there is an email in the complaint file that indicates someone at Realtracs confirmed the listing as valid.

The Respondent is part of a flat fee listing firm. The Respondent claims the MLS clearly provides alternate numbers (sellers) in the event the interested party wants to set up a showing (the MLS with the complaint does state such). The Respondent also claims the listing is set up through "ShowingTime." The Respondent thinks the seller was likely away when the request to show came through. As to the website link, the Respondent attributes that to user error on the Complainant's part. He thinks the Complainant tried to type in the link and got the address wrong. Regarding something being "amiss" with the listing, the Respondent explains that the home may have had several failed contracts and title issues that has kept in on the market longer than normal. With this business model, the Respondent is likely not as familiar with the listing than normal.

While the listing relies a great deal on technology, the listing does conform with the applicable statutes and rules.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

**30. 2022022551
Opened: 6/27/2022
Unlicensed
History: None**

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

Complainant alleges that the Respondent is acting as a “location agent” without a license. After an investigator was sent to the subject property, the Respondent refers to herself as a “property manager,” being employed by a property management entity. Respondent stated there were ongoing legal issues with Complainant related to the City. Respondent stated she did not know she was required to be licensed and previously held an affiliate real estate broker license. The investigator found, however, that this license expired in 2016. Complainant argues that Respondent works for an entity that falls under an exemption in Tenn. Code Ann. § 62-13-104(a) but does not specify. Complainant makes clear, and is correct, that any exemption within the *Act* only applies to the owner of the real estate and not their employees. Here, Respondent states she is a property manager, also known as a resident manager. Complainant provides in their complaint “...since [redacted name] is conducting real estate related transactions in state of Tennessee that include [*sic*] the collection of security deposits, they will need to ensure they have a licensed location agent and have completed the aforementioned form and application.” However, Tenn. Code Ann. § 62-13-104(a) does provide an exemption for property managers and resident managers. Specifically, Tenn. Code Ann. § 62-13-104(a)(1)(E) exempts “a resident manager for a broker or owner...where the person’s duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property. The resident manager or employee shall not negotiate the amounts of security deposits or rentals and shall not negotiate any leases on behalf of the broker”. Here, Complainant provides no evidence that Respondent is negotiating the amounts of security deposits or negotiating leases. It is only mentioned that Respondent is “conducting real estate related transactions that include the collection of security deposit.” Further, no information to the contrary was obtained during the investigation. Due to the insufficient and non-specific information provided by Complainant, and the lack of information provided by the investigation, Counsel finds inadequate information to find Respondent is conducting unlicensed activity.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

**31. 2022023331
Opened: 7/5/2022**

First Licensed: 3/22/2007

Expires: 7/26/2024

Type of License: Principal Broker

History: 2022 Consent Order for unlicensed activity (license not timely renewed)

The Complainant is a Tennessee resident-likely a buyer. The Respondent is a principal broker.

The Complainant alleges they were misled by the Respondent's business model. They claim that the Respondent included on an offer instructions "for money and closings to be held at [name of title company]. The Complainant says that no such title company exists. The name of the title company is something different. There is no supporting documentation with the complaint file.

The Respondent is unclear as to what the Complainant believes is misleading. This is not a failure to make a personal interest disclosure under Tenn. Comp. Rules & Regs. 1260-02-.11(1) as the issue is the Respondent's title company. The Respondent appears to have had no personal interest in the subject real estate.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

32. 2022023711

Opened: 7/5/2022

First Licensed: 3/27/2018

Expires: 3/26/2024

Type of License: Affiliate Broker

History: 2022 Consent Order for Failure to exercise reasonable skill and care to all parties in a transaction

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

The Complainant claims the Respondent's Facebook post on the Respondent's personal website violates the advertising rules. The copy of the posting is not an attempt to sell or list a particular property. It appears that he took a picture from the deck of a cabin near his home. The Respondent says he does not understand what the violation is.

It does not appear that the post fits squarely in the advertising rules in Tenn. Comp. Rules & Regs. 1260-02-12(1). The image he posted was not for sale and he was not implying it would be for sale in the future.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

33. 2022024791

Opened: 7/5/2022

First Licensed: 2/10/1993

Expires: 4/1/2023

Type of License: Principal Broker

History: 2021 Consent Order for Failure to Supervise an Affiliate due to Lapse in Affiliate's E&O Insurance

The Complainants are the buyers. The Respondent is the principal broker for the listing agent.

The Complainants were purchasing a house for their daughter and were under contract to purchase the subject home as of May 2, 2022. The seller signed the contract; however, the seller's wife did not sign the contract which held up closing. Now the parties are unable to close because "the listing agent failed to get both signatures..." The wife is on the deed, so her signature would be required.

The Respondent says that one of his agents had initially handled the sellers; however, the relationship with the affiliate broker became so strained that the Respondent eventually took over. The Respondent says the sellers were difficult to work with from the start. Sometime after the house went under contract with the Complainants, the seller-husband told the Respondent that they were going to "have to put things on hold for 4-6 months because [the wife] had broken her ankle." The Respondent advised him that would most likely not void the contract. The Complainants forwarded a mutual release to the Respondent; however, the sellers would not sign.

At this stage, the parties are at an impasse with civil litigation looming. The Respondent appears to have done all that was reasonable to get the sellers to sign all the necessary documents.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

- 34. 2022026061**
Opened: 7/5/2022
First Licensed: 12/15/2005
Expires: 12/14/2023
Type of License: Affiliate Broker
History: None

The Complainant a homeowner. The Respondent is the prior listing agent and the Complainant's neighbor.

The Complainant only says that his house is listed for sale on Zillow and the MLS; however, he claims that he purchased the home in 2018 and has no current intention of selling.

The Respondent says he listed the home the Complainant lives in for his neighbor at the time. The Complainant purchased the home in 2018. He says the MLS posting has been deleted for quite a while. According to the Respondent, the Zillow pictures indicate the home is "off market." The Respondent also says that there is an unrelated matter dealing with their HOA that he believes has prompted this complaint. Apparently, the Complainant was recently told by the HOA to remove a large structure on his property. The Respondent sits on the HOA as a member and feels the Complainant partially blames him for the HOA's recent decision.

The MLS has been deleted and the Respondent has no control over the Zillow pictures. Furthermore, the Zillow post clearly states the property is off the market.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

- 35. 2022021121**
Opened: 7/5/2022
Unlicensed
History: None

The Complainant is a Mississippi resident. The Respondent is an unlicensed entity.

The Complainant only says, “Company came up in a rental application. We have had no other dealing with them and prefer not to be involved in the complaint as we have no evidence or info other than what is included.” The Complainant included a copy of the TN Secretary of State corporate filing for the entity.

The Respondent says that they “own a few properties” in Tennessee but only rent properties they own. The Respondent says they have no knowledge of the Complainant or how their name came up.

The Respondent does not need a TN broker’s license to manage their own properties.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

36. 2022024661
Opened: 7/5/2022
First Licensed: 10/13/2017
Expires: 10/12/2023
Type of License: Real Estate Firm
History: None

The Complainants are the buyers. The Respondent is the listing agency.

The Complainants purchased a 112-acre plot of land in a rural part of the state via an auction. The property was sold this way as part of a lawsuit in which two heirs were fighting over the property stemming from their mother’s estate. The Complainants say they were the highest bidders at \$506,000. The Complainants did not use a broker. The Complainants now say that a survey company has informed them that the boundaries as determined by the survey company the Respondent hired are wrong. The Complainants claim they walked the property on two occasions.

The Respondent says they were selected by the court to auction the property. The Respondent explains that they hired a survey company to determine the boundaries and mark the property. He says that he provided the survey plat to all people who

came to the auction. The Respondent claims no knowledge of the stakes being wrong or anything else alleged by the Complainants.

This appears to be more of a complaint against the land surveyor or against the auctioneer arm of the Respondent's business-not the real estate broker arm. The Respondent appears to have complied with the court order, directing his firm to list the property for sale/auction.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

**37. 2022024121
Opened: 7/11/2022
Unlicensed
History: None**

The Complainant is anonymous. The Respondent is unlicensed.

The Complainant says her sister was searching for a new place to live and visited a townhome community. The Respondent showed the sister around; however, the Complainant alleges the Respondent tried to steer her to rent there. Supposedly, the Respondent introduced herself as a "leasing manager."

The Respondent says she is a "resident manager" for the owner. She claims that her "duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property." She claims to not negotiate leases or security deposits. The subject property is the only property she currently works at. The Respondent's email signature block is listed as "Property Manager."

Aside from the signature block, the Respondent appears to fall within the resident manager exception in T.C.A. 62-13-104(a)(1)(e).

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

38. 2022024391
Opened: 7/11/2022
First Licensed: 2/14/2007
Expires: 3/10/2023
Type of License: Principal Broker
History: None

The Complainant is a TN real estate licensee. The Respondent is a principal broker.

The Complainant references a listing that is permitted for three bedrooms; however, the MLS allegedly lists the house with four bedrooms. Supposedly, the Complainant told the servicing MLS in May 2022; however, the listing was unchanged as of June 15. The Complainant is largely upset as they believe other brokers are not advertising property in a correct fashion and wanted to bring it to the Commission's attention.

The Respondent says that his seller told him that she purchased the property as a four-bedroom home two years earlier. The seller also allegedly was unaware of any septic permit information when she originally bought the house. The Respondent goes on to say that he called TDEC to inquire about the septic system and could not get an answer. According to him, TDEC was "revamping their system" when he called them.

It appears neither the seller nor the Respondent had any records or reports to reflect that the property's septic system was not approved for four bedrooms. The eventual buyer of the property was represented by a realtor, so there was time for adequate due diligence. Overall, the Respondent used reasonable skill and care given what facts he was aware of.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2022025501
Opened: 7/11/2022
First Licensed: 4/29/2019
Expires: 4/28/2023
Type of License: Affiliate Broker

History: 2022 Consent Order for Advertising Violation

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

The Complainant claims there is a political promotion sign attached to the Respondent's sign, advertising the Respondent as a broker. The Complainant, while anonymous, appears to know the Respondent in some capacity.

The Respondent says that someone attached the sign to hers without her knowledge. The Respondent claims to have no knowledge of who did this; however, the sign was removed shortly thereafter.

It appears this complaint stems from some local grudge. The Respondent removed the sign once made aware of it.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

40. 2022025901
Opened: 7/11/2022
First Licensed: 4/22/1996
Expires: 4/16/2023
Type of License: Real Estate Broker
History: None

The buyers are the Complainants. The listing agent is the Respondent.

The Complainants say they went under contract on a house listed by the Respondent. The Complainants, however, were not able to obtain acceptable financing, so the deal fell through. According to the Complainants, the Respondent put the house back on the market with comments that the house didn't close because of the Complainants inability to get financing. A few months later on a house not listed by the Respondent, the Complainants claim the Respondent contacted the seller's agent, cautioning them that the Complainants' financing fell through in the prior contract.

The Respondent says the remarks on the MLS were only in the "Realtor Remarks" section and were not viewable by consumers. As to calling the seller's agent, the Respondent says that it was a listing in "our office" and he wanted to let the agent

know that the Complainants' mortgage company changed a lot of requirements right before closing (on the prior contract).

The Respondent appears to have contacted the seller's agent to let them know what his experience had been with the Complainants' mortgage lender in the first contract. There does not appear to be any intent on the Respondent's part to interfere with the Complainants' second contract. The intent was more to alert the listing agent to what obstacles the Complainants had encountered in the first contract. If this is viewed as an ethical violation, then it should be addressed through a local realtor's association.

Recommendation: Close.

Commission Decision: The Commission voted to issue a Letter of Warning for Tenn. Code Ann. § 62-13-403(3).

41. 2022026031
Opened: 7/11/2022
First Licensed: 8/20/2014
Expires: 8/19/2024
Type of License: Affiliate Broker
History: None

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

The Complainant claims a nationwide online company (buyer) offered to buy her home on May 9, 2022. The Complainant rejected this initial offer. Then, the buyer offered \$440,000 on June 7. The Complainant accepted this offer. The buyer requested an extension to complete their due diligence and then later asked to reduce the price to \$409,000 after the inspection. The Complainant says that the buyer used an addendum in the contract to withdraw from the contract without penalty when the Complainant refused the lower price. Initially, the Complainant was working without an agent but then later hired one. The Complainant believes the Respondent engaged in a bait and switch to get out of the contract.

The Respondent largely agrees with the Complainant's timeline of events; however, the Respondent points out that the buyer had an "unrestricted right to terminate the contract" pursuant to the purchase/sale contract addendum. Therefore, when the buyer requested a price reduction following due diligence, the buyer was within their rights. Based on the contract terms, the buyer was able to request such a reduction and then have the option to terminate.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2022026101

Opened: 7/11/2022

First Licensed: 6/9/2000

Expires: 5/29/2024

Type of License: Affiliate Broker

History: None

The Complainant is a Georgia resident. The Respondent is an affiliate broker.

The Complainant says he was represented by the Respondent in a real estate transaction in 2007 while living in Tennessee. The crux of the complaint; however, is the Complainant's view that the Respondent is engaging or has engaged in "discriminatory statements on Twitter about gender identity and sexual orientation, along with blanket attacks on democrats." The Complainant provided links to the Respondent's twitter posts; however, the posts are no longer accessible. The Complainant believes the Respondent has "profited" off clients who were LGBTQ while at the same time having these apparent personal beliefs. The Complainant does not say he was treated unfairly during his time the Respondent's client.

The Respondent denies he has ever posted anything that would be considered "hate speech." He also says that he has never been suspended from Twitter or any other social media platform. The Respondent says he is sorry if the Complainant does not agree with his views on several subjects on which he posts.

Counsel cannot see that any of the Respondent's current posts would be classified as hate speech. Further, the Commission has little to no power over a broker's personal social media posts so long as they do not overlap with a real estate transaction or advertising.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

43. 2022022341

Opened: 6/27/2022

First Licensed: 8/23/2017

Expires: N/A

Type of License: Time Share Registration

History: None

The Complainants are time share owners and Louisiana residents. The Respondent is a time share company.

The Complainants say they were “tricked” into making two purchases. The Complainants claim that during the sales presentation, one of the Respondent reps told the Complainants that the contract would only need to be in the Complainant husband’s name. Apparently, now both spouses are on the contract. The Complainants want to cancel the contracts. As an aside, there is no reference to a time share location in Tennessee.

The Respondent says that the Complainants first purchased with them in 2017, 2018, and 2019. In 2018, the Complainants agreed to trade their existing contract and utilize the equity to purchase another contract for a time share in Las Vegas, NV (this transaction is likely the one referenced by the Complainants). The Respondent claims to have no record of any time share rep making any promises to keep the spouse’s name off the contract.

It seems unlikely the Respondent reps would have offered to remove the spouse from the contract as real property interests are owned jointly by married people in Tennessee.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

CASES TO BE REPRESENTED

- 44. 2022004701**
Opened: 2/14/2022
First Licensed: 8/18/2005
Expires: 12/6/2022
Type of License: Principal Broker
History: None

The Complainant is the Respondent's estranged spouse. The Respondent is a licensed principal broker.

The complaint says the Respondent applied for a credit card in their name and then used the card to make purchases. Apparently, the Complainant filed a police report but there is no other information with the complaint (dollar amount, etc.). The local police did charge the Respondent; however, the matter has not yet been scheduled for an initial appearance (as of March 16, 2022). As the Commission has the authority to discipline depending on this matter's outcome, the complaint can be placed in litigation monitoring to await a final disposition.

Recommendation: Litigation Monitoring.

Commission Decision: The Commission accepted counsel's recommendation.

New Information: The subject charge against the Respondent was dismissed.

New Recommendation: Close and Flag.

New Commission Decision: The Commission voted to dismiss this complaint.

- 45. 2022006591**
Opened: 3/11/2022
Unlicensed
History: None

The Complainant is not a TREC licensee. The Respondent is an out-of-state individual who claims to be an investor.

The Complainant says the Respondent and a related entity are actively selling homes in “our market area.” He goes on to say the Respondent is acting as a wholesaler, marketing, and advertising that they are selling real estate. There is no other evidence with the complaint.

The Respondent is based in Arizona. They say they are not selling real estate, rather they are “assigning equitable title to real property which is granted via the bi-lateral purchase contract as seen in the disclosure statement...” The Respondent takes the position they are allowed to assign equitable title as part of the joint venture agreement they are engaged in. The subject listing the Complainant provided explicitly states it is “Contract for Assignment” as opposed to “for sale.”

Recommendation: Discussion.

Commission Decision: The Commission voted to issue a Consent Order with a \$1,000.00 civil penalty for unlicensed activity.

New Information: Counsel reviewed again the 2021 TN Court of Appeals case that deals with this issue and is the most recent holding on the topic. In the court’s opinion, it says quite explicitly that, “The Act [broker’s act] defines a “broker” as an individual who deals or attempts to deal by ‘negotiat[ing] the listing, sale, *purchase*, exchange, *lease or option*’ to buy or sell real estate.” The Court does not address the assignment of contracts.

Here, there is no other evidence aside from the Respondent’s assigning or attempting to assign contracts-not the listing, sale, purchase, etc. Without any additional facts, finding that the Respondent engaged or is engaging in brokerage is likely contrary to the Court’s opinion.

New Recommendation: Close.

New Commission Decision: The Commission voted to continue with the original decision.

New Information: The Consent Order was returned as “not deliverable.” Obtaining service on the Respondent located in Arizona may be a challenge. The Respondent’s response to the original complaint was via an email address. If the Consent Order was received, it may have prompted the Respondent to cease her activities in Tennessee.

New Recommendation: Close.

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

46. 2022008471
Opened: 4/4/2022
First Licensed: 11/24/2015
Expires: 11/23/2023
Type of License: Real Estate Firm
History: None

The Complainant is a former Respondent employee and a TREC licensee. The Respondent is a nation-wide property management entity headquartered in Arizona but with a TREC license.

The Complainant is a former employee of the Respondent who was terminated in March 2022. The Complainant alleges the Respondent “has been conducting questionable business practices for years.” One practice is allegedly allowing unlicensed leasing consultants to receive commissions for “TN move ins.” The Complainant says she reported this activity to the Respondent’s human resources division in January 2022 and was thereafter terminated. The Complainant believes she was retaliated against for reporting the matters in question.

The Respondent’s Director of Legal Services and Licensing responded to the complaint. The Respondent says their consultants do not receive commissions and that they are limited to answering calls and emails from prospects (much like a leasing agent at an apartment complex). The Respondent goes on to say that if a person is interested in a property from the website, they are then put in touch with a licensed leasing specialist. The Respondent says the individuals the Complainant identified in the complaint are either not engaged in “real estate activity” or are licensed in Tennessee. The Respondent closes by saying the Complainant was let go for “performance issues.”

In rebuttal, the Complainant claims that “every employee in every market is aware that [Respondent] have been assigned applicants and prospects outside of their jurisdiction.” The Complainant goes on to say that the licensed leasing specialists “were having their leads redirected to out of state [Respondent office] often and there is proof of this.”

The Respondent's general counsel reiterates what the Director says. She says they only use licensed individuals for those actions that involve a real estate transaction. They have a brick-and-mortar location in Tennessee; however, all the licensed real estate professionals work from home. It is unknown whether the Complainant is planning to file a lawsuit for wrongful termination.

The Commission may not be able to take the allegations as gospel based on the relationship between the parties. Clearly, the Complainant is quite biased against the Respondent due to her termination. An investigation can be undertaken to interview current employees for more information. Otherwise, there is insufficient evidence to prove a violation of TCA 62-13-301 (unlicensed activity).

Recommendation: Discussion.

Commission Decision: The Commission voted to defer this matter to allow enough time for counsel to gather more information regarding the complaint.

New Information: Counsel worked with the Respondent's in-house counsel to have a set of questions answered by both licensees and non-licensees concerning their knowledge of the Complainant's allegations. Neither the licensed brokers nor the unlicensed individuals were aware of any unlicensed activity as described by the Complainant.

While it is not impossible that such acts as alleged did not occur, other employees still with the Respondent claim to have never witnessed such acts. This will create a potential proof problem at hearing.

New Recommendation: Close.

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

**47. 2020058451
Opened: 8/31/2020
Unlicensed
History: None**

This complaint was administratively opened against the timeshare company. The Respondent is an unlicensed timeshare registrant in Tennessee.

The Complainant alleges the Respondent contacted the Complainant to purchase the time share for resale. The Respondent is a not hold a timeshare registration in Tennessee.

The Respondent did not provide a response to the complaint.

Recommendation: Authorize a formal contested case proceeding for unlicensed activity for operating as an unlicensed timeshare company with the authority to informally settle the matter for a \$1,000 civil penalty.

Commission Decision: The Commission accepted counsel's recommendation.

New Information: An investigator spoke with the original Complainant in August 2020. The Complainant only said there was an offer he received by mail to purchase his time share. The spouse, however, did not want to be involved. The investigator could not locate the Respondent's physical address-only a building where the Respondent may have worked out of at one time. The investigator did speak with the "agent" for the Respondent; however, he has since allowed his license to lapse. He told the investigator he only acquired a broker's license to assist in his law practice. In summary, there is now no entity or person to pursue in relation to this complaint aside from the agent who is now out of the realty business

New Recommendation: Close.

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

**48. 2020060211
Opened: 8/31/2020
First Licensed: 8/10/2018
Expires: 8/9/2024
Type of License: Real Estate Firm
History: 2019 Consent Order**

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

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

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

Recommendation: Close.

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

New Information: The billboard's content is not that different than other similar advertisements. The billboard clearly states that the Respondent's website contains the applicable terms and conditions, therefore, it did not purport to make a "promise" to the consumer. Given the similarity between the subject billboard and others, any discipline could be considered to be arbitrary and capricious. Further, the billboard has now been down for over a year.

New Recommendation: Close and Flag.

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

**49. 2022018701
Opened: 5/31/2022
First Licensed: 12/8/2008
Expires: 9/6/2024
Type of License: Real Estate Broker
History: None**

The Complainant is a real estate investor and builder who also claims to own part of the subject realty business. The Respondent is a real estate broker.

The Complainant alleges that the Respondent took \$10,000 from a realty firm in which the Complainant's mother is the majority owner. The Respondent was the broker for the subject realty firm and was in the process of closing down the subject firm. Apparently, the mother gave the Complainant a power of attorney to conduct some of the day-to-day business activities of the firm. According to the Complainant, a local bank informed him that the Respondent had made a check out to herself from the firm escrow account. Additionally, the Complainant claims that the Respondent retained a security deposit and first month's rent at one of the properties managed by the firm. The monies were not turned over the realty firm either.

Since the Respondent's firing on March 16, 2022, the Respondent had also failed to turn over files and records related to real estate transactions. The Respondent was broker-released by the principal broker on May 11. The Complainant filed a police report with local authorities on May 6. The Respondent was later charged with one count of forgery-there is presently no conviction. The principal broker claims to have had no knowledge of how the Respondent "handled anything relating to the closing of that business."

The Respondent, largely, denies all the Complainant's allegations. Regarding the \$10,000 withdrawn from the escrow account, the Respondent says she discovered that the firm's operating account had numerous unauthorized transactions to "CashApp." The Respondent then claims she went to the bank to report these and have the app shut off. Apparently, the root of the transactions was an HVAC technician that had been given permission from the Complainant to make charges to the firm's account for repairs. Therefore, it is possible the account was run dry by the HVAC guy and not the Respondent.

In rebuttal, the Complainant says the entire story about the HVAC technician is a fabrication. The Complainant also claims to have hired an accounting firm to go over the books since the firm's closure and the Respondent's firing. He says the firm found an additional \$25,000 missing. The Complainant, of course, attributes the missing money to the Respondent. As of late June, the Complainant claims to have filed an additional police report for theft.

This Respondent also has an open 2019 complaint that is currently in litigation monitoring. The allegations in that complaint are similar to the ones in this complaint.

Recommendation: Discussion.

Commission Decision: The Commission voted to defer this matter to the October meeting.

New Information: Counsel contacted the Complainant to obtain additional information related to the status of Respondent's matter. Complainant informed Counsel that Respondent has been criminally charged on four (4) different counts related to this matter. Respondent was to appear in Court last month, but that date was continued. Presently, Respondent is not a principal broker, but does maintain their real estate broker license. However, as a real estate broker, all Respondent must do in order to become a principal broker is complete a form and select the designation. While Respondent has yet to receive any convictions related to this matter, due to the seriousness of the direct relation to the criminal charges, Counsel recommends that Respondent voluntarily suspend their license, and/or downgrade their license pending the outcome of criminal proceedings. Following conclusion of the criminal proceedings, Respondent shall appear before the Commission in an informal capacity for a licensure determination decision prior to reinstatement of their real estate broker license.

New Recommendation: Voluntary Surrender or downgrade their license pending outcome of criminal proceedings. Following conclusion of the criminal proceedings, Respondent shall appear before the Commission in an informal capacity for a licensure determination decision prior to reinstatement of their real estate broker license.

New Commission Decision: The Commission voted to issue a Consent Order downgrading Respondent's license to affiliate broker pending the outcome of the pending criminal matters. Also following the conclusion of the criminal proceedings, Respondent shall appear before the Commission in an informal capacity for a licensure determination decision prior to reinstatement of their real estate license.

Anna Matlock
New Complaints

50. 2022020521
Opened: 5/31/2022
First Licensed: 4/11/2018

Expires: 4/10/2024

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant states Respondent and their son were the second showing on their home for full price and were under contract within a week of listing. Following this, Complainant details following the appraisal the amount came in under their asking price and their agent offered to reduce their commission to offset the reduce price and Complainant's agent asked Respondent to do the same. Complainant states Respondent ignored and then ignored and refused to do the same. Complainant then discusses a failed amendment related to a "lease-back" provision and rate extension. Complainant believes they were manipulated by Respondent and feel that due to their previous commitment to purchase a home out of state, they were pressured to complete this transaction. Complainant further states Respondent was difficult and unprofessional, and that phone calls and emails were unanswered.

Respondent answered the complaint stating originally, they asked for a one-time showing agreement for the property to show to their son and an offer was made and Complainants never responded. Later, another showing occurred and the property went under contract in December 2021. Respondent states at the time the lender ordered the appraisal they had no say in who the appraiser was and that a third-party company was used. Respondent details many negotiations with Complainant's agent throughout the transaction including pricing following the appraisal, the inclusion and exclusion and exclusion of certain equipment in the sale to offset expenses and costs, renter's insurance, and Complainant's proposal of a "lease-back" option. Respondent stated their client was not comfortable with a "lease-back" provision but was willing to accommodate the Complainant needing to stay in the home longer and close later but needed assistance with the cost of the rate lock extension. Respondent states their company does not reduce commissions, there were no unanswered calls or emails on their end, and they did everything they could to make this an amicable transaction for both parties.

Based on the information provided by the parties, Counsel finds no evidence to support that Respondent violated any of the Commission's rules or statutes. Complainant provides no evidence to support Respondent failed to return emails or phone calls. Further, matters of professionalism are left for the local association and fall outside of the Commission's jurisdiction. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 51. 2022021141**
Opened: 5/31/2022
First Licensed: 10/5/2017
Expires: 10/4/2023
Type of License: Affiliate Broker
History: None

Complainant and Respondent are affiliate brokers and entered into an agreement to purchase a property together. Complainant alleges Respondent was to remodel the property and return twenty percent of the investment by November 19, 2021. Complainant states during 2021, Respondent was shut down by the city for remodeling without a permit. After obtaining the permits, Respondent then decided to divide the property into two (2) different properties and by passing the November 19, 2021 deadline. Complainant alleges they requested their funds and Respondent refused. Complainant further details providing Respondent additional funds with an expectation of payment by February 15, 2022. In March, Complainant states they hired an attorney to collect their money from Respondent. Complainant states that Respondent then listed the property for sale at an unreasonable amount of money, delaying the sale and causing the property to sit for three (3) months, when Complainant alleges it should have sold within twenty-four (24) hours.

Respondent answered the complainant stating they entered a joint venture to buy, renovate, and sell a property with Complainant through a signed contract. Respondent stated this is their first contract and they began the work without pulling a permit and this was "a rookie mistake and an honest one." Respondent states they corrected their mistake and admits their project exceeded the agreed timeline, but the contract contacted these stipulations. Respondent details a particular storm that delayed construction and how Complainant helped financially and added to the loan. Respondent closes stating the property was on the market for just over one (1) month and sold higher than appraised and Complainant was paid all proceeds owed at closing. Based on the information provided, Counsel does not find any violation of the rules or statutes by the Commission. Additionally, the allegations by Complainant appear to be more of a contractual dispute, a matter that falls outside of the Commission. Also, matters related to professionalism and ethics also fall

outside of the Commission and are reserved for the local association level. Therefore, Counsel recommends that this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

52. 2022016001

Opened: 6/6/2022

Unlicensed

History: None

Complainant is a principal broker. Respondent is an unlicensed entity. Complainant alleges through Respondent's website homeowners are permitted to sell their property directly to Respondent, who subsequently relists the property for investors to purchase. Complainant states Respondent's website provides a listing of all available properties for purchase and is in violation of the Commission's statute by conducting real estate activity without a license. Complainant states Respondent has no firm, principal broker license, and no brokerage disclosure on their website, but is actively listing properties on a regular basis and allowing access through an unlicensed representative of Respondent. Complainant provides a screenshot of a property that states you can "book a viewing" with an individual Complainant has researched that is unlicensed. Complainant further states Respondent has a listing of "Recently Sold" properties and is using a name to buy and sell through an entity that is unlicensed with the state of Tennessee. Through their own research, Complainant alleges Respondent has conducted business for over two (2) years and believes Respondent should be required to comply with the same requirements they do as a licensee to "protect the community."

Respondent answered the complaint through their attorney. Respondent's attorney states they believe their business adhere to all applicable laws but are applying for a real estate brokerage license and are in the process of finding a principal broker for the company. Additionally, Respondent's attorney states that Respondent has since removed all business marketing in Tennessee from internet platforms in an abundance of caution. Respondent's attorney states they deny allegations of unlicensed activity as they do not list properties on behalf of another and purchases properties for its own ownership. Respondent's attorney states it its process is to execute a valid "as is" cash-offer purchase and sales agreement with each property owner as the seller and Respondent later executes an assignment of the purchase and

sales agreement with an assignee. Respondent attorney also states their practice of double closings, when both the buyer and seller close on a property, falls within the owner exemption and does classify as unlicensed activity. Lastly, Respondent's attorney denies any allegation that Respondent's staff is compensated for purchase and/or sale of real estate, as Complainant has failed to provide any proof that this allegation is true.

The initial question of whether Respondent is required to be licensed now appears to be a moot issue as Respondent is now fully licensed and active as a real estate firm. Offers to purchase an individual's property do not *always* require a real estate license. For example, Tenn. Code Ann. § 62-13-102(4)(A) defines "broker" as "any person who, for a fee, commission, finders fee or any other valuable consideration or with the intent or expectation of receiving a fee, commission, finders fee or any other valuable consideration from another, solicits, negotiates, or attempts to negotiate the listing, sale, purchase, exchange, lease or option to buy, sell, rent or exchange for any real estate..." and here, we are missing the "for a fee, commission, finders fee, or any other valuable consideration, or expectation or receiving a fee, commission, finders fee, or any other valuable consideration..." Respondent's model appears to be offering to buy an individual's property, purchasing that property, and then relisting that property. Respondent in that circumstance would then, very likely fall into the ownership exemption of Tenn. Code Ann. § 62-13-104(a)(1)(A). As an owner, Respondent is not required to hold a real estate license. Through Respondent's response submitted by tier attorney, this is also being utilized through the assignment process. Based on the information provided by Complainant and Respondent, Counsel believes it is in Respondent's best interest to obtain licensure, which Respondent has already done. What Complainant has alleged in this complaint; Counsel does not find enough information to find specific unlicensed activity. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

53. 2022021881
Opened: 6/14/2022
First Licensed: 9/17/2018
Expires: 9/16/2024
Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant states they are a co-owner of an industrial park and Respondent represented the owner of one of the transaction parties. Complainant alleges Respondent represented one party to be a successful businessperson, but after the lease execution the tenant defaulted on the lease obligations and failed to pay rent and submit the security deposit. Complainant states they called Respondent who they allege was aware of the ongoing issues and further allege they believe Respondent had prior knowledge the tenant was incapable of performing the obligations of the lease and made misrepresentations during the transaction, leading to court proceedings and out of pocket costs.

Respondent answered the complaint stating they were unaware their former client was incapable of performing the obligations of the lease. Respondent states prior to execution of the lease they obtained two (2) years of profit and loss statements through the tenant's accountant and no other information was requested from Complainant. Respondent states they performed their duties well and believe that Complainant is misplacing a burden on them for the tenant's financial issues. Respondent denies ever misrepresenting anyone and states they take pride in their work. Counsel finds no information to support that Respondent had any prior knowledge the tenant was incapable of performing the obligations of their lease. Complainant provides no evidence to support Respondent had any knowledge, nor any evidence of misrepresentations during the transaction. Therefore, for these reasons Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

54. 2022022631
Opened: 6/20/2022
First Licensed: 3/28/2018
Expires: 3/27/2024
Type of License: Affiliate Broker
History: None

Complainant and Respondent are affiliate brokers. Complainant states they had a listing and after four (4) days they were told by the seller they were unsatisfied and

considering working with an agent they worked with previously. Complainant alleges the sellers then requested a mutual release and making false accusations against them. Next, Complainant states while they attempted to keep the sellers and involved their managing broker, the sellers “began using terminology that is more common for an agent to use than a client.” Complainant states once the sellers were released from the contract they relisted with Respondent, who allegedly told the sellers how to get out of the contract so Respondent could list the property. Complainant states they tried to contact the sellers and believes the lack response is because Respondent was giving them, the sellers, unethical advice and intentionally sabotaging their former listing.

Respondent answered the complaint stating they were originally introduced to the sellers by referral through an out of state agent in 2019, represented them as the buyer’s agent in June of 2019, and has since remained friends with them. Respondent states the sellers originally selected Complainant, also a friend of the sellers, to list their home and were not contacted until May 10th. Respondent states on May 10th the sellers contacted them upset stating they believed Complainant was poorly representing and misleading them. Respondent further states at this time they informed the sellers they could not give them any advice. On May 17th, Respondent states the seller contacted them, provided a copy of the mutual release, and the notification where they had cancelled their purchase and sale agreement on their property and not represented by Complainant. Respondent denies any engagement or involvement with the sellers, incurred many issues when they took over the listing of the home due to errors from Complainant’s original listing.

Based on the information provided, Counsel finds no evidence to support that Respondent intentionally sabotaged Complainant’s listing. Complainant provides no information or documents to support this claim. Further, Respondent provided a statement from the sellers supporting that they were not influenced by Respondent. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

55. 2022024341
Opened: 6/20/2022
First Licensed: 4/17/1996
Expires: 5/2/2023

Type of License: Real Estate Broker

History: 2018 Agreed Citation regarding advertising violation

Complainant is Tennessee resident. Complainant is a real estate broker. Complainant purchased their condo in January of 2021 and noticed during their showing in November or December of 2020 they noticed their balcony appeared to be structurally weak. Complainant's agents contacted Respondent, the selling agent, who stated they spoke with the homeowner's association that stated the condo's balcony was up for replacement. After the purchase, Complainant states they contacted the homeowner's association about the balcony and was informed the HOA is not responsible for balconies due to a by-law and they did not inform Respondent of this information. Complainant states they would not have purchased their condo but for this information from Respondent and estimated cost of this repair is eighteen thousand dollars (\$18,000.00). Complainant believes Respondent lied and deliberately misinformed them.

Respondent answered the complaint stating they never spoke with Complainant about the balcony and would never inform them the HOA would replace the balcony. Respondent states Complainant has changed their story twice, the first being Respondent informed them the balcony was covered. Respondent states they have never met Complainant as this was a mail-away closing, the conversation in this iteration of the story Respondent states this phone conversation never took place. Respondent states they represented the seller, not the buyer, and Complainant's agent had all the information for the HOA. Complainant submitted a rebuttal denying there were ever two (2) reiterations of the issue at hand and states they have never spoken with Respondent directly but do recall hearing the conversation on speakerphone. Based on the information provided, Complainant provides no evidence to support that Respondent informed them the balcony would be covered for repairs by the homeowner's association. There are no written documents to support this claim and Respondent denies the conversation took place. Therefore, due to the lack of supporting evidence and documentation, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

56. 2022024641

Opened: 7/5/2022

First Licensed: 3/27/2013
Expires: 7/20/2024
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a principal broker. Complainant states Respondent is their landlord and allegedly emailed them an amendment to their lease stating their spouse worked for the commercial business on the back end of the commercial property. Further, Complainant alleges they were required to lie on behalf of Respondent should an official ask questions. Complainant then alleges they discovered the commercial business in question had a cease and desist attached, but Respondent was told by county officials that if Respondent had a residential rental, Respondent would have to partition the property to have a commercial business on the premises as well. Complainant alleges this could be avoided if the tenant of the residential property also lived owned the business. Complainant alleges Respondent failed to disclose this information during their lease process in September of 2020 and against in September of 2021. When Respondent was confronted about this issue, Complainant alleges Respondent attempted to have them illegally evicted on the premise that they wanted to sell the property and issued a detainer warrant on the grounds of non-payment. Complainant denies non-payment; and went to court in April of 2022 stating Respondent nor their attorney appeared in court. In closing, Complainant alleges Respondent has since harassed their minor children with many breaches to their lease agreement and made it unpleasant to live on the property.

Respondent answered the complaint stating Complainant has been late in their payments on six (6) different occasions during their tenancy. Respondent further denies that they have harassed Complainant's minor children, only handing a late rent notice to a teenage child once after they answered the door. Respondent states that Complainant has also physically assaulted a guest on their property and provided a copy of the policy report. As they have recently begun to not permit late payments, Respondent states this has upset Complainant. Based on the information provided and alleged by Complainant, it appears this matter is more so related to a landlord tenant dispute, which falls outside of the Commission's jurisdiction. Therefore, Counsel recommends that this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 57. 2022024851**
Opened: 7/5/2022
First Licensed: 2/1/2006
Expires: 8/28/2023
Type of License: Principal Broker
History: 2021 Consent Order for Failure to Supervise an Affiliate due to lapse in Affiliate's E&O Insurance

This is related to an administratively related complaint. The original complaint was filed against the unnamed team and opened against Respondent. Complainant is a Tennessee resident. Respondent is a principal broker. Complainant states this the mailer sent is an advertising violation of Tenn. Comp. R. & Regs. 1260-02-.12(3) as the broker's firm name or phone number appears nowhere on the envelope or card. Complainant states this leads people to believe the sender is a firm or broker. The attached mailer contains the information "If you or anyone you know has any real estate needs, please reach out! Love, [redacted name] Team" and the back states "IT IS A GREAT TIME TO FALL IN LOVE with a new home" [redacted name, address, website].

Respondent answered the complaint stating the agent in question hired a new team member and mailers were sent without approval. Respondent states once this was brought to their attention it was addressed that all advertising must be approved by them. Further, Respondent states they go over TREC rules each week in their contract class. Respondent states this was an oversight and will not happen again. This advertisement is a violation of Tenn. Comp. R. & Regs. 1260-02-.12(3) and Counsel recommends an assessment of a One Thousand Dollar penalty for failure to supervise.

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

Commission Decision: The Commission accepted counsel's recommendation.

- 58. 2022025851**
Opened: 7/11/2022
First Licensed: 8/26/2005
Expires: 3/31/2024
Type of License: Affiliate Broker

History: None

Complainant is an affiliate broker. Respondent is an affiliate broker. Complainant states they were sent a contract by an investor to write for an assignment when they noticed it was not signed by the seller. Complainant informed the investor they could not assign an incomplete contract. The contract in question is written on a form from Tennessee REALTORS® (“TR”) with Respondent’s name at the bottom. Complainant states the investor then later provided the same contract a week later, that was signed, but the “accept, counter, or reject” was not checked and Complainant refused to move forward. The next day, the contract was sent with the “accept” box checked. The following day, Complainant states they emailed the investor when they saw the price was incorrect and noticed Respondent had created a new contract and pieced two (2) contracts together into one (1) .pdf with the same signature page. Complainant states the investor informed them this is what Respondent instructed them to do by text which stated “the owner does not have a computer and lives out of town. So, they were trying to make the logistics of getting everything signed the best way they knew how.” Complainant states though they have had no contact with Respondent they believe this behavior is extremely unethical and may break some TR rule or regulation.

Respondent’s principal broker states Respondent has had no contact with Complainant and the contract Complainant attached does not match either contract on file with their office. Respondent’s principal broker states this contract does appear to be pieced together, but this was not done with Respondent and the signatures in two of the contracts do not match. Further, it appears the buyer’s email was compromised during the transaction and may have originated from this account, but this cannot be proved. Respondent’s principal broker provides copies of the two (2) contracts they have in possession and states Respondent has taken a new training class on buyer and client paperwork. Respondent also provided a response denying piecing the contracts together. Respondent details they represented the investor that assigned a contract to Complainant. Respondent states the contractors were only ever sent to the investor from Authentisign, but never met Complainant. Respondent also provided copies of the two (2) contractors and text messages between them and the investor.

Based on the information provided by Complainant, there is no evidence to support that a “pieced together” contract was sent from Respondent to Complainant or from Respondent through the investor. While Complainant does have a text message from the investor stating they were trying to make everything get signed the best way they knew how, there is no information supporting that this information was a directive

from Respondent. Respondent and their principal broker provided the only two (2) executed copies of the contract, which do not match what was provided to Complainant. Therefore, Counsel does not find that Respondent violated any of the rules or statutes and recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

59. 2022026281

Opened: 7/11/2022

First Licensed: 4/9/2020

Expires: 4/8/2024

Type of License: Affiliate Broker

History: None

Complainant is a Tennessee resident. Respondent is an affiliate broker. Complainant states their property closed on December 4, 2020, and several of the windows were defective and Respondent informed them of the opposite. Complainant states they attempted to contact the previous owner, but Respondent would not provide their contact information. As of the complaint, Complainant had not heard from the window contractor. Complainant provides copies of emails from 2020 and 2021.

Respondent answered the complaint stating the issue regarding the defective windows was not resolved, but they were not aware until receipt of the complaint, fifteen (15) months after their last correspondence from Complainant. Respondent states they have since contacted Complainant, come to a resolution, and offered to personally cover the window replacement. Respondent provides a timeline of inventions during the transaction, which included a home inspection that resulted in a repair/replacement proposal executed by all parties. This included that the "sashes for the windows with broken seals are on order. Delivery and installation may take up to 4-6 weeks. The Seller ordered and paid for the sashes on November 11, 2020. The invoice is attached." Respondent provided an email stream with Complainant that ended on March 10, 2021, states a Christmas card was sent to Complainant in 2021, and that Complainant has their cell phone and knows where their office is located. After receipt of the complaint, Respondent states they contacted the contractor, verified they had the windows and their schedule, scheduled a visit to Complainant's property, and then paid for the window replacement.

Complainant provided a rebuttal thanking Respondent for their assistance cooperating and promptly resolving this matter. Based on the information provided by both Complainant and Respondent, Counsel finds no violations of the rules and statutes. While issues remained unresolved related to the closed transaction, Respondent did take affirmative steps initially in 2020, 2021, and upon receipt of this contract to remedy the issue. Therefore, Counsel recommends that this matter be dismissed without action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

60. 2022027001
Opened: 7/11/2022
First Licensed: 1/28/2013
Expires: 1/27/2023
Type of License: Affiliate Broker
History: None

Complainant is an affiliate broker and the listing agent. Respondent is an affiliate broker and the buyer's agent. Complainant states during the end of the transaction Respondent began to delay and even at times ignore communications impacting the contract. Complainant alleges Respondent would refuse to communicate alleging they were out of the office or unavailable, leaving their client to make uncomfortable decisions to not "lose the deal." On the day of the contract expiration, Complainant states they explained to Respondent their client was a second extension due to their inability to receive a CTC, but Respondent stated they understood the new cost Complainant's buyers would incur and would present to their buyers. Complainant states Respondent acknowledged they did not present their sellers' request to the buyers and threatened to let the deal expire, including not including the supporting documents because Respondent was not working on the file for the remainder of the day. Complainant states Respondent's decision forced their clients to make an unfair decision, Respondent violated their fiduciary duty, and was very unprofessional. Complainant provided a supporting text message screenshot.

Respondent answered the complaint stating the day of the incident in question was the evening before their child's birthday party. Respondent states they began conversations with Complainant at 7:00 a.m. and was clear with their client's needs and expectations, as well as their expectations and boundaries of coming to a

resolution before 5:00 p.m. that evening. Respondent states Complainant's clients waited to sign and send by the closing extension until midnight the evening in question when the contract was set to expire and requested Respondent's clients spend significant funds to close beyond the extension date. Respondent states they were protecting their client and always in communication with them and all parties. However, Respondent further states the documents in question sent by Complainant would not have changed their client's decision and ability to pay more money per day to extend past the closing date and therefore they did not send the documents to them right away as they had already discussed with them everything the seller were requesting earlier that day. Respondent goes on to further state Complainant did not respect their clearly articulated boundaries, took no for an answer to the point they stated they were no longer working anymore that day, and put their phone on "Do Not Disturb." Respondent states the transaction closed on time and believes Complainant did not respect their professional and personal boundaries. Additionally, Respondent states after closing Complainant's sellers intended to have a refrigerator replaced and Complainant did not respond to communications. This led to Respondent changing the locks to ensure the sellers did not have access to the home to remove or replace the refrigerator.

Tenn. Code Ann. § 62-13-404(1)(3)(A)(ii) provides that any licensee who acts an agent in a transaction owes to the licensee's client the duty to receive all offers and counter offers and forwarding them promptly to the client. Here, Respondent did not forward the documents sent by Complainant the evening of the May 20th because Respondent explained they were no longer working for the remainder of the day due to previously articulated time restrictions to Complainant. However, from the text messages provided by Respondent it appears Respondent may have worked beyond their own deadline. Additionally, Respondent states the documents in question would not have changed their clients' decision and ability to pay more money. Therefore, because of these existing facts, Counsel believes Respondent should be sent a Letter of Warning. Complainant was aware of Respondent's schedule for the day, and there is no evidence that the information was not provided to Respondent's client in the end.

Recommendation: Letter of Warning cautioning Respondent of the duties in Tenn. Code Ann. §§ 62-13-403 and 62-13-404.

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

TIMESHARES:

- 61. 2022023071**
Opened: 7/11/2022
First Licensed: 8/10/2004
Expires: 12/31/2016
Type of License: Time Share Registration (Expired)
History: None

Complainant is an out of state resident. Respondent is an expired timeshare company. Complainant has owned a timeshare with Respondent since 1991 and states they have been a nightmare to deal with and believes they have been tricked into many falsehoods. Complainant alleges they were never explained fully the extent of their timeshare and did not understand maintenance fees would increase each year. Complainant further states they are unable to use their timeshare and do not have the funds to maintain their purchase. Complainant alleges Respondent will not allow them to surrender their ownership and requests a resolution to this matter.

Respondent answered the complaint through their homeowner association's offer. Respondent states Complainant owns their timeshare by deed, which allows them to use, sell, rent, exchange, or transfer via their will. Respondent further states Complainant purchased a flexible week use and it is not the homeowner association's responsibility to assist in selling their week. Respondent did confirm Complainant has used their timeshare for several years and Complainant's maintenance fees are in good standing, so there is no reason to foreclose. Complainant submitted a rebuttal and states they do not accept Respondent's response as a resolution and believe they are trapped in an ownership with no way out, leaving them solely dependent on someone wanting to take their specific timeshare and assume the burden of their payments.

Based on the information and documents provided by Complainant and Respondent, the rescission period has expired, and this matter is outside the statute of limitations. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

- 62. 2022017851**
Opened: 6/14/2022

First Licensed: 7/27/2022
Expires: 7/26/2023
Type of License: Real Estate Firm
History: None

Complainants are out of state residents. Respondent is a licensed timeshare company. Complainants originally purchased their timeshare in 2014 and upgraded in 2015 and since have had life changes and no longer wish to own their timeshare. Complainants detail they were only able to use their timeshare once and were unaware of increasing maintenance fees every year. Complainants state Respondent refuses to release them from their timeshare and have since stopped payments, yet Respondent still refuses to foreclose or close their accounts. Complainants state Respondent continues to harass them for money even after they have revoked their user rights.

Respondent answered the complaint stating Complainants entered a Club Plan Purchase Agreement on March 14, 2014, and a second agreement on March 8, 2015, and that their Club Purchase Agreements were canceled on May 24, 2022, for defaults on their loan payments and maintenance fee obligations. Respondent further states no further collection efforts on their Promissory Note have been made since July 8, 2022. Respondent states reservations are made on a first come, first serve basis, and are made on a points reservation's requirement based upon unit type and season. Based upon a review of their account, Respondent states, Complainants' failure to stay current with their loan maintenance fee payments impacted their ability to properly use their membership. Respondent denies Complainants were not properly advised of the terms of their Club Purchase Agreements, including maintenance fees.

Respondent has cancelled the agreements and has since stopped collection efforts on payment from Complainants. Based on the information and documents provided by Complainants and Respondent, the rescission period has expired, and this matter is outside the statute of limitations. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

Chair Marcia Franks adjourned the meeting at 12:25 P.M. EST