



**STATE OF TENNESSEE  
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NASHVILLE, TN 37243  
615-741-2273**

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

**MINUTES**

The Tennessee Real Estate Commission met on October 5, 2023, at 8:30 a.m. EST at Greater Chattanooga REALTORS®, 2963 Amnicola Highway, Chattanooga, TN 37406. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Executive Director Denise Baker read the public disclaimer and called the roll. The following Commission members were present: Vice-Chairman DJ Farris, Commissioner Steve Guinn, Commissioner Jon Moffett, Commissioner Joe Begley, Commissioner Kathy Tucker, Commissioner Stacie Torbett, and Commissioner Michael Gaughan. Absent were Chairman Geoff Diaz, and Commissioner Joan Smith Quorum Confirmed. Others present are Associate General Counsel Anna D. Matlock, Associate General Counsel Kimberly Cooper, Associate General Counsel Aerial Carter, Education Director Ross White, and TREC staff member Aaron Smith.

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

The motion to approve the October 5, 2023, agenda was made by Commissioner Tucker and seconded by Commissioner Gaughan. The motion passed unanimously.

The September 13, 2023, Commission meeting minutes were submitted for approval.

The motion to approve the September 13, 2023, minutes was made by Commissioner Torbett and seconded by Commissioner Moffett. The motion passed unanimously.

## **INFORMAL APPEARANCE**

Audra Arstikaitis appeared before the Commission with her Principal Broker, Jennifer Carstensen, to receive approval for her Affiliate Broker license.

The motion to approve Audra Arstikaitis was made by Commissioner Guinn and seconded by Commissioner Gaughan. The motion passed unanimously.

## **EDUCATION REPORT**

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

The motion to approve courses O1-O40 was made by Commissioner Begley and seconded by Commissioner Tucker. The motion passed unanimously.

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

The motion to approve the instructor's biography was made by Commissioner Torbett and seconded by Commissioner Tucker. The motion passed unanimously.

## **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Denise Baker updated the Commission on the topics below.

**TREC Quarterly Newsletter** – The Commission was informed that the quarterly newsletter would be forthcoming and would include pertinent licensee information and updates.

**2024 RFP** – The Commission was updated that TREC would start accepting Testing Facilitation and Errors and Omissions Insurance proposals in 2024. Currently, the state Testing Vendor for Real Estate is PSI, and RISC Insurance holds Errors and Omissions Insurance.

**PSI Pass Fail Reporting** – Executive Director Denise Baker advised the Commission that she would be working with PSI to correct a discrepancy in the reporting of Pass/Fail testing.

### **COMMISSION DISCUSSION:**

The Commission and Executive Director Denise Baker thanked Greater Chattanooga REALTORS® for hosting the Tennessee Real Estate Commission's October meeting.

### **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 1-61 except for the following complaints, which were pulled for further discussion: **2023021801, 2023032461, 2023033391, 2023035911, 2023032451, 2023036531, 2023035721, 2023038391, 2023028901, 2023033861, 2023034631, 2023035021, 2023035041, 2023037321, 2023033921.**

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

After further discussion by the Commission on complaint 2023021801, Commissioner Guinn motioned **to accept the Counsel's recommendation.** Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023032461, Commissioner Begley motioned **to dismiss the complaint.** Commissioner Gaughan seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023033391, Commissioner Tucker motioned **to assess a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1).** and Commissioner Torbett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023035911, Commissioner Tucker motioned **to assess a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Comp. R. & Regs. 1260-02.12(5)(c).**, and Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023032451, Commissioner Torbett motioned **to accept the Counsel's recommendation,** and Commissioner Moffett seconded the motion. The motion was carried unanimously.

After further discussion by the Commission on complaint 2023036531, Commissioner Tucker motioned **to accept the counsel's recommendation**. Commissioner Gaughan seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023035721, Commissioner Begley motioned **to dismiss the complaint**, and Commissioner Guinn seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023038391, Commissioner Begley motioned **to issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for failure to return earnest money and administratively open a complaint against Respondent's principal broker for failure to supervise**, and Commissioner Moffett seconded the motion. The motion carried 6-1, with Commissioner Guinn voting no.

After further discussion by the Commission on complaint 2023028901, Commissioner Torbett motioned **to accept the Counsel's recommendation**, and Commissioner Tucker seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023033861, Commissioner Torbett motioned **to issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for violation of T.C.A. § 62-13-312(b)(1) and a One Thousand Dollar (\$1,000.00) T.C.A. § 62-13-403(1). Additionally, the Commission voted to require Respondent to complete a three (3) hour course in ethics within one hundred eighty days (180) above and beyond the required continuing education**. Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023034631, Commissioner Gaughan motioned **to accept the Counsel's recommendation**, and Commissioner Tucker seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023035021, Commissioner Torbett motioned **to accept the Counsel's recommendation**, and Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023035041, Commissioner Torbett motioned **to accept the Counsel's recommendation**, and Commissioner Moffett seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023037321, Commissioner Tucker motioned **to accept the Counsel's recommendation**, and Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023033921, Commissioner Guinn motioned **to accept the Counsel's recommendation**, and Commissioner Torbett seconded the motion. The motion carried unanimously.

## **Kim Cooper**

### **New Complaints:**

- 1. 2023020721**  
**Opened: 5/15/2023**  
**Unlicensed:**  
**History: None**

Complainant is a licensee; Respondent is licensed in another state. Complainant alleges that they worked with Respondent to locate investment properties and that Complainant spent many hours searching for properties for Respondent. Complainant alleges that Respondent found a property they were interested in purchasing through Complainant and then went behind both Complainant and listing agent to negotiate with the Seller directly, then “tricked” the listing agent into sending Respondent the Tennessee sales agreement and commission forms. Complainant alleges that Respondent took advantage of the seller and cut Complainant out of a commission.

Respondent stated that they never had an agency relationship with Complainant, and that the property they ultimately purchased was not one of the properties that Complainant sent to them (although Complainant again disputed that in their rebuttal). Respondent provided copies of the Purchase and Sale Agreement that was sent to them by the listing agent as well as copies of texts between Respondent and the listing agent showing they were in contact several times during the negotiating process. Respondent states they acted strictly as a buyer in this process and never represented themselves as a Tennessee realtor. Based on the documents provided there is no apparent violation of the *Broker Act*.

**Recommendation:       Dismiss**

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

2. **2023021801**  
**Opened: 6/12/2023**  
**First Licensed: 9/28/2021**  
**Expires: 9/27/2023**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant alleges that they contacted the Respondent "Home Builders" because of a leaking septic tank, and that they tried repeatedly during February and March for Respondent's "company that does their work" to come fix the septic tank. Complainant also alleges that the home was advertised and sold to them as five-bedroom home, but that Respondent installed a three-bedroom septic system. Complainant did not provide copies of any paperwork, or the MLS listing referenced in their complaint.

A letter sent to Respondent was returned undeliverable by both US mail and email. Counsel is concerned that the incorrect Respondent is referenced by Complainant and without additional information we cannot move forward at this time.

**Recommendation: Close and flag.**

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

3. **2023022541**  
**Opened: 6/26/2023**  
**First Licensed: 10/26/2004**  
**Expires: 12/14/2024**  
**Type of License: Principal Broker**  
**History: None**

Complainant is an investor; Respondent is a licensee. Complainant alleges that they contacted Respondent via a referral website for general repairs on a home. Complainant alleges that Respondent held themselves out as a project manager who also assisted investors and that Respondent was acting as Complainant's agent to look for other investment properties for Complainant. Complainant alleges that

Respondent took funds for materials to make repairs and did not actually provide any repairs. Complainant alleges unlicensed activity and theft.

Respondent did not respond to the complaint.

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

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

- 4. 2023023481**  
**Opened: 5/30/2023**  
**First Licensed: 6/3/2009**  
**Expires: 4/29/2025**  
**Type of License: Principal Broker**  
**History: None**

Complainant was the seller of property and Respondent/licensee was the buyer's agent. Complainant alleges that they were under contract with Respondent's buyers with a "cash offer, no appraisals, no contingencies, title work was completed, and we were clear to close" when a few days before closing the buyers decided not to purchase the property. Complainants did not agree to sign the mutual release under the advice of their agent and their attorney. Complainant provided copies of the Purchase and Sale Agreement and the Notification Form wherein Respondent noted under "Other: Buyers have had an unforeseen financial circumstance due to buyers' close family member (redacted) has fallen ill. They direly need their assistances (sp)". The Mutual Release of Purchase and Sale Agreement signed by the Buyer and Respondent on May 7, 2023, is also provided, and states that the "Earnest Money shall be disbursed and is forfeited by Buyer and paid to Seller." On June 24, Complainant states they signed the release to mitigate losses and return the property back on the market. As of August 3, 2023, Complainant stated they still had not received the earnest money.

Respondent confirmed that their client backed out of the contract due to "financial reasons." There is no explanation given as to why the earnest money had not been returned to the Complainant.

Complainant advised Counsel on August 27, 2023, that their agent reached out to Respondent again to request the earnest money and Respondent replied by asking if

Complainant was going to “drop the complaint”. Respondent was told no, and the earnest money was again not sent.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-104(7)(A)(v).**

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

5. **2023032461**

**Opened: 7/17/2023**

**First Licensed: 1/17/1996**

**Expires: 7/1/2024**

**Type of License: Principal Broker**

**History: 2006 Letter of Warning; 2018 Consent Order for failure to supervise and affiliate due to an advertising violation; 2019 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; 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliate’s E&O insurance**

This complaint was administratively opened after Respondent’s affiliate broker was found in June 2023 to have failed to disclose that they were a licensee and had a personal interest in the transaction and was issued a civil penalty of \$1000. The original Complainant, who unbeknownst to the affiliate broker is a long-time friend of Respondent, reported that the affiliate broker “cold called” the Complainant at least three times, offering to purchase Complainant’s property and did not disclose that they were a licensee. One of these calls was recorded and forwarded to Respondent, who then immediately released the affiliate broker. In response to this complaint, Respondent feels the release of the affiliate broker was the “appropriate action and necessary”.

**Recommendation: Discuss.**

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

6. **2023032601**

**Opened: 7/17/2023**



**First Licensed: 9/18/2014**  
**Expires: 9/17/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a property owner. Respondent is an affiliate broker who was working with the Owner of the adjacent property to sell Owner's parcel. Complainant alleges Respondent has willfully failed to disclose in the advertising of the property that they and Owner have a shared well agreement and that Complainant already has plans to reattach the well. Complainant also alleges that Respondent is actively helping Owner conceal the extent of the well agreement and that Owner is refusing to have the well water tested in fear that the results will be unfavorable and subject to disclosure. Complainant alleges that the property isn't worth what Respondent has it listed for and that they are actively and fraudulently misleading potential buyers.

Respondent denied all allegations and provided a statement from their client Owner on Respondent's behalf. Respondent alleges that Complainant wanted to purchase Owners' property at a reduced rate, was denied, and so began harassing owner and any potential purchasers. Respondent provided a picture of a hand-painted wooden sign on Complainants' property that was vulgar and referenced the Owner. Respondent provided copies of the Property Condition Disclosure and Sewage System disclosure forms and stated all available information about the shared well agreement have been provided to all potential purchasers. Respondent also noted that the well had been neglected for years and has not worked at all in almost ten years. Complainant submitted a rebuttal that again accused the Respondent of misrepresenting the condition of the home and property. The condition seemed obvious, however, when Counsel viewed the MLS listing and the pictures and disclosures provided by the Respondent. Counsel also noted that the property sold for within 5% of list price after the filing of this complaint.

Based upon all this information, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

7. **2023033161**  
**Opened: 7/17/2023**

**First Licensed: 8/4/2023**  
**Expires: 8/8/2025**  
**Type: Principal Broker**  
**History: None**

Related to REC # 2023033831 below.

Complainant and Respondent are both licensees in another state. Complaint was filed on July 10, 2023. Complainant alleges that Respondent and their Spouse (REC # 2023033831) have been acting as unlicensed agents since May 2023. Complainant alleges that Respondents are promoting the sale of property through websites, podcasts, and various other social media, specializing in one particular luxury resort owned by a third party who is highlighted on the Respondents' website as part of the "team". The Complainant provided a link to Respondents' website along with a copy of an email wherein Respondent confirms "I will be the listing agent but you can use any TN Licensed agent to purchase." The website for the property states: "COMING 2024" while Respondent's biography under the "Meet the Team" tab states that Respondent is a "real estate agent" and the "Owner and Broker in Charge" of a then unlicensed firm. Based on the documentation provided Respondent does appear to have been engaging in unlicensed activity in violation of Tenn. Code Ann. § 62-13-301.

Respondent replied that they had submitted all the paperwork to be licensed along with the application to establish and license the firm referenced in the bio on the website. Respondent states that they were "working diligently towards gaining proper licensure WHEN sales begin". Respondent stated that all the materials provided by Complainant were marketing materials for the project once they broke ground and Respondent was licensed. Respondent denies unlicensed activity and says they were generating leads for future sales. Respondent's Spouse, who was described as the firm's "Real Estate Marketing and Sales" member, is also working toward obtaining their license but to "avoid confusion" Respondent removed Spouse's information from the website. Respondent obtained their Tennessee principal broker license three (3) weeks after the complaint was filed.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for unlicensed activity prior to licensure (May 2023 through August 2023) pursuant to Tenn. Code Ann. § 62-13-301.**

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

**8. 2023033831**  
**Opened: 8/21/2023**  
**Unlicensed**  
**History: None**

This complaint is related to REC # 2023033161. The Respondent is the “Spouse” in the summary detailed above.

**Recommendation: Letter of Warning regarding unlicensed activity.**

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

**9. 2023033391**  
**Opened: 7/17/2023**  
**First Licensed: 1/22/2021**  
**Expires: 1/21/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant was an out of state buyer, Respondent was their agent. Complainant alleges that they were having trouble finding “fair” financing and that Respondent pleaded with Complainant to go forward with the transaction so that Respondent could be paid. Complainant alleges that Respondent mislead Complainant about the condition of the home prior to closing to “close the deal” and acted in their own interests and not that of their client. Complainant provided a copy of the first page of the Purchase and Sale Agreement which specifies that “Trash, Debris, Personal Items” shall not remain on the property. Complainant alleges that Respondent conducted a final walk-through on Complainant’s behalf, provided some pictures and a “selective video” that made it appear the property was in good shape and had been cleared of debris. Complainant alleges that when they arrived at the home after closing, they found a twenty (20) foot long brush and debris pile in front of the home, the home had not been cleaned, and the previous owners’ trash and discarded paint cans were still present. Complainant alleges that Respondent’s acts are in violation Tenn. Code Ann. § 62-13-404(2) requiring the duty to be loyal to the interests of the

client and place the interests of the client before all others in negotiation of a transaction.

Respondent denied pressuring Complainant to go forward, emphasizing that they made sure Complainant knew their options and made clear that financing decisions like everything else in the process were ultimately the Complainant's choice, not Respondent's. Respondent confirmed that Complainant was unhappy with the closing costs and that Respondent was able to negotiate some of the closing expenses. Respondent confirmed that Complainant was out of state and asked for videos of the walk-through of several properties including the one ultimately purchased, and that Respondent complied. Respondent attached a video of the final walk-through of the purchased property, and it's clear in the video that the home is unkempt and there are some personal items in the home. Complainant sent a text message to Respondent that the seller "can leave what they want to". Respondent also included messages between Respondent and Complainant discussing the state of the property prior to closing and asking if Complainant had additional questions or needed further video. Complainant stated they did not, and contacted Respondent the day after closing to confirm they had arrived at the property and were happy with it. Respondent did admit to missing that a repair was not done to the bathroom as was required by the repair amendment. Respondent contacted the listing agent to attempt to remedy the issue if possible. Respondent alleges that Complainant then contacted the listing agent and the sellers and demanded that they make the repair, which would cost around \$100, and they declined but offered the Complainant \$100 for the error. Respondent alleges that Complainant then harassed sellers and told Respondent that if they were "truly sorry" for the repair and debris issues they should use their commission to get the issues fixed. A copy of that message was attached to the response. Respondent noted that Complainant purchased thirty acres along with the home, and that it was not possible to video every part of the property prior to closing. Respondent denied misleading or defrauding the Complainant.

Complainant sent in a rebuttal to the response and stated that since they filed the complaint, they have had to hire an excavator and a dumpster to remove trash and additional debris piles from the property. Complainant states that the debris piles they complained about can be viewed from the front porch of the property, that the final walk through was completed the day before closing by Respondent, and it would have been obvious that the items left behind could not have been removed in the hours before closing. Complainant also states that the "repair" for the bathroom was a plumbing issue and not insignificant, and that Respondent admitted to not confirming it was done just like they did not confirm that the personal items and trash were removed from the property prior to closing. Complainant denied

“harassing” sellers and attached a copy of a text conversation that appeared to be initiated by seller, asking if the Complainant had any questions about the property. Complainant states that when they texted Respondent that the sellers “can leave what they want to” they were referring specifically to the farm materials that had just been mentioned by Respondent being in the out-building. When Complainant told seller to come get their personal property they left behind, seller states “that won’t be possible. You are free to dispose of it however you see fit.” Complainant states that Respondent failed to act with due care for Complainant.

**Recommendation: Discuss.**

**Commission Decision: The Commission voted to assess a One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-403(1).**

**10. 2023033841**

**Opened: 7/17/2023**

**First Licensed: 6/7/2010**

**Expires: 6/6/2024**

**Type of License: Affiliate Broker**

**History: None**

Complainant was a potential buyer of property; Respondent was Seller’s agent. Complainant alleges that they entered into a Purchase Agreement and that the closing date was set for July 6. Due to a title issue the closing was then extended, although it is unclear from the complaint what date was agreed to. Complainant did not provide copies of any documents. Complainant alleges that the closing date then changed several times and that they and their agent advised Respondent that the Complainant was ready to close on July 12<sup>th</sup> as requested. Respondent then learned the property sold on July 11. Complainant alleges that Respondent agreed to July 12<sup>th</sup> but did not get the amendment signed by the seller and did not act in the seller’s interest. Complainant states they were ready and willing to close on July 12<sup>th</sup> as requested by the seller and they do not “understand why I am not closing on this property.” Complainant also alleges “personal bias” by the Respondent but does not state what the bias may be.

Respondent confirmed that the closing date was originally set for July 6<sup>th</sup> but due to the title issue that did not occur. Per the Purchase and Sale Agreement, if the closing did not occur on the chosen date and there is not a mutually agreed upon extension of the closing date, the “Agreement shall terminate”. Respondent provided copies of

numerous text messages between Respondent and Complainant's agent attempting to set a new closing date. It appears from the messages that there was a tentative agreement for July 14<sup>th</sup>, but then Seller instructed Respondent that they "had to close" by July 12<sup>th</sup> or they would accept the back-up offer. Respondent reminded Complainant's agent via text on July 7<sup>th</sup> that an amendment agreement for the 14<sup>th</sup> had not been signed by Seller; Seller would not extend past July 12<sup>th</sup>; and an email on July 10<sup>th</sup> to Complainant's agent again reminded them that Seller would not agree to an extension to the 14<sup>th</sup>. Seller agreed via text to this email being sent to Complainant's agent. When Complainant's agent did not respond timely to Respondent's repeated texts about whether Complainant could close on July 12<sup>th</sup>, Seller instructed Respondent to move forward with the back-up offer. Based on the documents provided, Respondent acted in accordance with their client's wishes, and there is no apparent violation of the *Broker Act*.

**Recommendation: Dismiss.**

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

**11. 2023034851**

**Opened: 7/24/2023**

**First Licensed: 3/20/2019**

**Expires: 7/18/2025**

**Type of License: Affiliate Broker**

**History: None**

This was an anonymous complaint alleging unlicensed activity by Respondent. An image was attached to the complaint with Respondent's name and a firm name and phone number but no information as to where the image came from. Respondent stated that they did not post the image, the image was created at Respondent's request because they were renewing their license and preparing to work with the listed firm. The graphic designer who made the image posted it on their own Facebook page without Respondent's knowledge to show the quality of their work. There is no other indication that the Respondent was practicing without a license.

**Recommendation: Dismiss.**

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

**12. 2023033341**

**Opened: 7/24/2023**  
**First Licensed: 12/11/2015**  
**Expires: 12/10/2023**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant was a buyer; Respondent was the agent of the Seller. Complainant states that the owner of the property was “stated to be a real estate agent” with the firm but that they did not know if the listing agent was the owner of the property. Complainant entered into a purchase agreement on June 22, 2023 with the closing set for July 7, 2023. The night before closing Complainant stated their agent notified them that the title company needed additional documentation in order to proceed, and Complainant alleges that the Seller was not cooperating with the requests and clear title had not yet been established. Complainant offered to obtain a corrected survey of the property at their own expense in order to facilitate the title issue and seller refused to extend the closing date in order to do so. Complainant believes that Respondent firm had a backup offer that was greater than their own offer and so “wanted to find whatever means to dislodge us from the purchase.”

Respondent confirmed that the owner of the property is a licensee and works with their firm and provided a copy of the Personal Interest Disclosure and Consent form signed by all parties on June 21, 2023. Respondent learned prior to closing that a title issue existed dating back to the purchase by the current sellers in 2004. The title company that conducted that closing was willing to move forward without a new survey because it was their error that created the issue; title insurance was provided; and the buyer’s agent was notified that the sellers were ready to move forward with the closing on July 5, 2023. The response from the buyer’s agent was that Complainant wanted a new survey done and an extension of the closing date. The sellers did not agree to the extension; the contract expired; the backup offer was accepted, and the earnest money returned to the Complainant.

There is insufficient evidence of a violation of the *Broker Act*.

**Recommendation: Dismiss.**

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

**13. 2023034231**  
**Opened: 7/24/2023**

**First Licensed: 6/13/2023**  
**Expires: 6/12/2025**  
**Type of License: Vacation Lodging Service Firm**  
**History: None**

This was an anonymous complaint. Complainant appeared to be alleging unlicensed activity, and attached a copy of an advertisement mailer that was received on or around July 13, 2023. Respondent did respond to the complaint and confirmed they received their license on June 13, 2023.

**Recommendation: Dismiss.**

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

**14. 2023035611**  
**Opened: 7/31/2023**  
**First Licensed: 1/25/2016**  
**Expires: 6/21/2025**  
**Type of License: Real Estate Broker**  
**History: None**

Complainant is a part-owner of family-owned property that the three owners decided to sell. Respondent was their listing agent. A copy of the listing agreement and the Confirmation of Agency Status was provided. Complainant alleges that Respondent is "placing a lien on our property because (my sibling) and I decided not to sale (sp) our land." Respondent found a buyer for the property, but Complainant decided not to sell and did not sign the purchase agreement. Complainant alleges that Respondent then demanded their commission, and that Respondent would not answer their questions about how the mutual release would affect the sale of the property should they decide to sell later and so they did not sign it. Complainant states that Respondent "wants us to pay (Respondent) for the sale of the property that did not sale (sp) or (Respondent) will place a lien on it."

Respondent advised that the property was owned by the three members of the family. One member was the original purchaser of the land with a sibling; the other two inherited the land from the now deceased sibling. All three members signed the listing agreement. Eight days after listing the property a buyer submitted a full-price cash offer and the Buyer's agent submitted a Purchase and Sale Agreement to that effect that was signed by the Buyer and Buyer's agent. Complainant and sibling then



stated they changed their minds and did not want to sell. Respondent stated they consulted their Broker and an attorney, and they advised Respondent was within their rights at that point per the listing agreement to demand their commission or place a lien on the property. The other Owner wanted to go forward with the sale of the property and was embarrassed by the acts of Complainant so signed the release and paid the Respondent the commission. Owner submitted a statement on Respondent's behalf. After reviewing the documents and the text messages between the parties there is insufficient proof of a violation of the *Broker Act*.

**Recommendation: Dismiss.**

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

**15. 2023035911**

**Opened: 7/31/2023**

**First Licensed: 1/28/2013**

**Expires: 5/16/2025**

**Type of License: Affiliate Broker**

**History: 2022 Letter of Warning; 2023 Consent Order for Advertising Violation; 2023 Consent Order for Advertising Violation**

Complainant contracted to purchase a home with a builder/seller represented by Respondent. Complainant states they relied on the statements of the MLS listing since they were not provided builder plans and alleges that the home was marketed by Respondent as having a gas fireplace, and when questioned about the "missing" fireplace during the building process Respondent advised that the fireplace would be an upgrade that would add an additional \$20,000 to the final price of the home. Complainant provided a copy of what appears to be the MLS listing which does not mention the fireplace in the public or private remarks but in "General Information" it states "Fireplaces: / Gas". Complainant alleges that Respondent misrepresented the home and then tried to swindle that additional money from them under the guise of it being an upgrade. Complainant also alleges that when confronted about the fraudulent advertising, Respondent stopped communicating with them and they only had contact with the builder.

Respondent denied any misrepresentations were made to the Complainant. Respondent stated that: "My intention is never to mislead buyers or consumers with my listing descriptions, and I diligently try go above and beyond to make sure there is no misleading verbiage in any of my listings, especially new construction listings.

I feel this is a matter of a new feature Realtracs has recently added to our listing system around the same time I posted this home for sale. I have also elevated this concern directly to Realtracs MLS.” Respondent stated they would have mentioned a fireplace in the public remarks if applicable and said that when Complainant signed the purchase agreement the layout of the home was already set, and the lack of a fireplace would have been obvious. Respondent also stated that the communication between them and the Buyer’s agent was constant, and that if the Buyer’s agent had reached out directly to their seller it would have been a violation of their code of ethics.

Complainant provided a rebuttal to the response, alleging that the initial listing with the gas fireplace was what they relied on because as a former licensee in another state, Complainant knew that the item had to be checked in a drop-down menu. Complainant disputed that the layout of the home was obvious when they signed the contract, alleging that it was only in the framing stage at that point. Complainant advised that they now did not think Respondent was malicious but that the Respondent was negligent in how they drafted the advertisement and how they handled the situation after being made aware of the error.

**Recommendation: Letter of Warning regarding advertising and the need to be “current and accurate” per Tenn. Comp. R. & Regs. 1260-02-.12(5)(c).**

**Commission Decision: The Commission voted to assess a Five Hundred Dollar (\$500.00) civil penalty for violation of Tenn. Comp. R. & Regs. 1260-02.12(5)(c).**

**16. 2023035951**  
**Opened: 7/31/2023**  
**First Licensed: 8/13/2019**  
**Expires: 8/12/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant and Respondent are both licensees. Complainant was the listing agent of Seller. Complainant alleges that Respondent contacted Seller who was also a friend of the Respondent and berated Seller for not using Respondent to sell their home. Complainant alleges that Respondent represented Seller when they purchased their home in 2019, felt they deserved to be the listing agent, and told Complainant that they hoped the Sellers were not able to sell their home since they did not use the Respondent’s firm.

Respondent confirmed that they had known Seller since they were a child, detailed how they had helped Seller purchase the home and renovate it, and agreed they were upset that Seller chose Complainant to sell the home instead of Respondent's firm. Respondent stated they called Seller to ask why they chose Complainant instead of Respondent and told Seller they hoped Seller "had a nice life" and hung up. Respondent denied berating Seller or telling Complainant they would make it difficult to sell the home.

While an unfortunate situation and perhaps an unprofessional response by Respondent to Seller, it does not appear to be a violation of the Rules or *Broker Act*.

**Recommendation: Dismiss.**

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

**17. 2023031521**

**Opened: 7/31/2023**

**Unlicensed**

**History: None**

This is an anonymous complaint alleging unlicensed activity by Respondent, specifically that Respondent is acting as a property manager for short-term rentals, including rental agreements that can be made online via Respondent's website.

Respondent's attorney answered the complaint on behalf of Respondent. Respondent was previously issued a civil penalty for unlicensed activity because of a complaint that was also anonymously filed with the same allegations. Respondent obtained the required Vacation Lodging Services licensures as of July 27, 2023. Because the allegations match the previous anonymous complaint and the Commission has already acted on those allegations, Counsel advises that the complaint be dismissed.

**Recommendation: Dismiss.**

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

**18. 2023033361**

**Opened: 7/31/2023**  
**First Licensed: 8/2/2018**  
**Expires: 8/1/2024**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant was a renter of a home managed by Respondent. Complainant alleges mismanagement by the Respondent and alleges that Respondent misrepresented the home as being “move-in ready” when in fact it was unclean and needed repair. Complainant did not provide a copy of the advertisement. Complainant also alleges that Respondent “forged” a document and charged a late fee for rent that wasn’t late. Respondent eventually sent Complainant a request to vacate the home.

Respondent’s attorney responded on behalf of Respondent. Respondent is properly licensed; there is no evidence a document was forged; Complainant signed off on the home inspection prior to move-in; and as this matter is essentially a landlord-tenant dispute over rental fees and repair charges it is not within the jurisdiction of the Commission.

**Recommendation: Dismiss.**

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

**19. 2023034971**  
**Opened: 8/7/2023**  
**First Licensed: 9/23/2019**  
**Expires: 9/22/2025**  
**Type of License: Principal Broker**  
**History: None**

Complainants were the sellers of a home; Respondent was the out-of-state Buyer’s agent. Complainants were represented by their own agent. Respondent’s client entered into a purchase agreement with Complainants on May 20, 2023, with earnest money to be collected within five (5) days and closing set for June 20, 2023. On June 16, 2023, Complainants say they learned that Buyer had not deposited the earnest money as required. Complainants allege that on May 25, 2023, when Buyer defaulted on the contract by not depositing the earnest money as required, Respondent was negligent in not notifying Complainants and that as result of that negligence Complainants lost the \$1,000.00 in earnest money as well as an

additional \$600.00 in fees for home and pest inspections. They have been unable to go after the “Buyer” as the only contact information that Respondent had was a phone number and that number is blocking calls. Complainants request “some sort of disciplinary action and monetary compensation.”

Respondent stated that while the offer to purchase was accepted on May 20, 2023, the contract states that the holders will not be bound until a pre-approval letter from the local lender is received by the listing agent. Respondent advised Complainants’ agent on May 20, May 22, and May 24 that they did not yet have a pre-approval letter, but Buyer kept assuring Respondent they would have one soon. Respondent states they attempted every day to get their client to meet the terms of the contract and suggested on June 5 to Complainants’ agent that per the contract they (Complainants) should make written demand the name and contact information of Buyer’s lender; for proof of funds, earnest money deposit and hazard insurance, and Complainants made that demand the same day, giving Buyer until June 7 to comply. When Buyer did not comply, Complainants terminated the contract and re-listed the home on June 8. Respondent states they were in constant contact with Complainants’ agent, and that Complainants terminated the contract when Buyer did not comply. Respondent provided copies of numerous texts between Respondent and Buyer with their attempts to get Buyer to comply and copies of texts advising Complainants’ agent of the difficulties they were having with Buyer as well as Complainants’ agent stating they had talked to Complainants on June 7 and were still hoping the sale could be worked out somehow. Finally, there is a copy of an email with the Notification form attached dated June 7, to Complainants from Complainants’ agent, alerting them that the contract has been terminated due to Buyer’s actions.

**Recommendation: Dismiss**

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

**20. 2023037271**

**Opened: 8/7/2023**

**First Licensed: 6/25/1999**

**Expires: 8/5/2025**

**Type of License: Principal Broker**

**History: None**

Complainants purchased a home; Respondent is the principal broker of the affiliate broker who was the listing agent of the home. Complainant alleges they purchased

the home as an investment property based on the MLS description of the property “Currently being used as a short term rental, this would also be a wonderful addition to your investment portfolio. Per seller, averages around \$3,000 per month in short term rental income.” Complainants learned approximately ninety days later that the property was not zoned to be a short-term rental. Complainants stated that they spent over \$14,000 for supplies and furniture to prepare the home to be a short-term rental property and that but for the description on the listing from the real estate agent would not have purchased the home. Complainants state that as a local realtor Respondent should have known that the home was not zoned for the use, they advertised it for.

Respondent states that the seller was using the property as a short-term rental and all indications from the seller to the listing agency was that it was a successful property. Respondent provided Complainant’s agent with screenshots of the rental listings as well as proof of income from that address. Respondent states seller also had another property on the same street, listed at the same time by another agent, that was also advertised as a short-term rental. Respondent states they were not aware of any issues with the zoning and took the seller at their word that it was a permissible use of the property.

**Recommendation: Letter of Warning regarding advertising and the need to be “current and accurate” per Tenn. Comp. R. & Regs. 1260-02-.12(5)(c).**

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

**21. 2023032451**

**Opened: 8/15/2023**

**First Licensed: 5/3/2013**

**Expires: 6/26/2025**

**Type of License: Principal Broker**

**History: None**

This is an administratively opened complaint. Respondent’s affiliate broker was previously issued a \$1,000 civil penalty for advertising violations. Respondent denies that the advertisement is a violation as defined by Rule 1260-02-.12(1) as it was sent to REALTORS® only, and not to consumers. Respondent stated that “Upon receipt of the initial complaint, I did work with (affiliate broker) to correct (their) logo/email signature to be compliant with TREC guidelines so that (they) would remain in compliance when corresponding with the everyday consumer. Had this e-

blast been sent to consumers, it would have absolutely been a violation. However, it was only sent to REALTORS®, and therefore should not be considered an advertising violation.”

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for violation of Tenn. Code Ann. § 62-13-312(b)(15), failure to supervise.**

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

**22. 2023033781**

**Opened: 8/15/2023**

**First Licensed: 11/21/1979**

**Expires: 1/5/2025**

**Type of License: Principal Broker**

**History: None**

Complainant was a potential purchaser of investment properties; Respondent is a licensee. Complainant alleges that they “engaged Respondent’s services” to assist in locating properties and based on Respondent’s availability planned a trip to view those properties. Complainant alleges that they then received a last-minute text after they were already in town informing Complainant that Respondent was unavailable due to meeting with other clients. Complainant also alleges that Respondent asked for confidential financial information and they now are concerned that Respondent will misuse that information and allege that Respondent’s actions cost them time and money. Complainant alleges that Respondent was deceptive and that other potential clients should be wary.

Respondent denied that they and Complainant had any formal agent relationship, saying their engagement was limited to a few phone calls to discuss properties that might fit Complainant’s search. Respondent states they told Complainant that the properties would be shown subject to Sellers’ availability and wishes, and that there was one property of the two proposed that the seller then declined to show. As for the financial records, Respondent confirmed that they were asked by their own client/Seller for proof that the Complainant had the ability to pay the substantial asking price of their home, and Complainant responded with “We will be paying in cash”. Seller then declined the request to view the home. Respondent provided copies of this emailed conversation and states they did not have any additional financial information from the Complainant. Based on the provided documentation

it does not appear that Respondent had committed any violation of the Commission Rules or the *Broker Act*.

**Recommendation: Dismiss.**

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

**23. 2023036471**

**Opened: 8/15/2023**

**First Licensed: 5/16/1995**

**Expires: 5/29/2025 (Retired license 8/2/2023)**

**Type of License: Real Estate Broker**

**History: None**

This is an anonymous complaint. Complainant provided a link to a news article naming the Respondent as a defendant in a criminal case. Respondent did respond to the complaint and confirmed there was a pending court matter. Currently, there is no violation of the *Broker Act* or the Rules of the Commission.

**Recommendation: Dismiss.**

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

**24. 2023036531**

**Opened: 8/15/2023**

**First Licensed: 9/20/2017**

**Expires: 9/19/2025**

**Type of License: Affiliate Broker**

**History: None**

Complainant is an investor; Respondent is a licensee. Complainant alleges that Respondent marketed a "real estate training class" and charged participants \$3,000.00. Complainant completed the course and then agreed to invest \$30,000.00 in a property that Complainant and Respondent would apparently renovate and sell for a profit. Complainant provided a copy of a "Joint Venture Agreement" allegedly signed by both Complainant and Respondent setting forth the terms of the investment and split profits from the sale of the home. Complainant alleges that Respondent then sold the property without notifying Complainant and kept all the



proceeds. Complainant is now suing Respondent and alleges fraudulent dealing, specifically using Respondent's licensure to market the "scam" course.

Respondent's attorney responded on Respondent's behalf. Respondent denied all allegations of fraud or misrepresentation but acknowledged that when Complainant complained about the class and threatened to act against it the Complainant was refunded the cost of the class and was "even refunded some additional funds in an effort to maintain some level of good will." Respondent also acknowledged that a civil suit has been filed and asks that the matter be placed in "abeyance" pending the outcome of that matter.

**Recommendation:           Litigation monitoring.**

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

**25.   2023035721**

**Opened: 8/21/2023**

**First Licensed: 9/29/2016**

**Expires: 9/28/2024**

**Type of License: Affiliate Broker**

**History: None**

Complainant and Respondent are both licensees. Complainant alleges that they made an offer on a home listed by Respondent on June 27<sup>th</sup> that was not accepted by the seller. Complainant then made a higher offer on July 21 and alleges that Respondent replied that they would not present the offer to their seller without proof of funds or a preapproval letter. Complainant provided copies of the Purchase and Sales Agreement prepared by the Complainant for the July 21<sup>st</sup> offer and partial copies of text messages between Complainant and Respondent for the offers made on June 27<sup>th</sup> and July 21. Complainant alleges that Respondent's refusal to present the offer to the seller without additional stipulations being met first is a violation of Tenn. Rule 1260-02-.08 which in relevant part states: "A broker or affiliate broker promptly shall tender every written offer to purchase or sell obtained on a property until a contract is signed by all parties."

Respondent's attorney provided a response for Respondent. Respondent stated that the offer made on June 27<sup>th</sup> was "significantly less" than the list price as noted by the Complainant in the text message that accompanied the offer; the offer document

was **not** signed; the Complainant did **not** disclose they were also a licensee; and Counsel noted in reviewing the Purchase and Sales Agreement prepared by the Complainant for the June 21<sup>st</sup> offer (and provided by the Respondent) that it states: “Buyer does not have representation”. Respondent alleges Complainant never disclosed that they were a licensee in violation of T.C.A. § 62-13-403 which states: “A licensee who provides real estate services in a real estate transaction shall . . . (7)(A) Not engage in self-dealing nor act on behalf of licensee's immediate family or on behalf of any other individual, organization or business entity in which the licensee has a personal interest without prior disclosure of the interest and the timely written consent of all parties to the transaction . . . .”

In response to the allegations that Respondent did not present offers to the seller, Respondent states that after the June 27<sup>th</sup> offer was conveyed to Seller, Seller was “offended” and rejected it, which Respondent then passed along to Complainant. Respondent was unable to contact their client after July 10<sup>th</sup>, and provided copies of numerous text messages sent to the client before and during the time when Complainant alleges that the offer made on July 21 was not conveyed. Respondent also provided a copy of the July 21<sup>st</sup> Purchase and Sales Agreement which, like the June 27<sup>th</sup> offer is **not** signed by the Complainant, but the language “Buyer does not have representation” is absent on this document. Respondent states that while unable to reach their client they could not advise Complainant as to whether their client was interested or not and was trying to protect their client’s interests by telling Complainant that they “would not present the offer without proof of funds or preapproval letter”, hoping to hear back from the seller eventually. Tragically, Respondent ultimately learned that seller had been critically injured in a car accident on July 10<sup>th</sup>, was not identified until several days later, and passed away from their injuries on July 22. The complaint was filed on July 24<sup>th</sup>.

**Recommendation:        Discuss.**

**Commission Decision: The Commission voted to dismiss the complaint.**

**26.    2023036341**  
**Opened: 8/21/2023**  
**First Licensed: 5/21/2010**  
**Expires: 5/20/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant was the spouse of Respondent, who is a licensee. The complaint is jumbled and hard to follow but implied unprofessional behavior by the Respondent. Respondent's principal broker and Respondent both submitted responses denying the allegations, and there is no proof to support a violation of the Commission rules or applicable statutes.

**Recommendation: Dismiss.**

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

**27. 2023037041**

**Opened: 8/21/2023**

**First Licensed: 9/25/2019**

**Expires: 9/24/2023 (EXPIRED GRACE)**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a homeowner along with spouse; Respondent is a licensee. Complainant alleges that in the middle of divorce proceedings with Spouse they learned that Respondent listed the marital home without Complainant's knowledge or permission. Complainant provided a copy of a Purchase and Sale Agreement signed by a potential buyer and does have Complainant and Spouse's name as sellers of the property. The Agreement is not signed by the sellers. Complainant stated they obtained a copy of the agreement from the buyer's agent, who confronted the Respondent and Respondent "admitted" to not having a listing agreement with Complainant. Complainant goes on to state that the home "did end up being sold" but does not explain how that occurred without Complainant's permission.

Respondent denied any wrongdoing. Respondent confirmed that they were previously friendly with both Complainant and Spouse, and that during a very contentious divorce the home was ordered sold. Spouse asked Respondent to help them sell the home, and they did so, while forwarding all paperwork to Spouse to be shared with their lawyer and Complainant. Respondent did not earn a commission on the sale of the home because Complainant would not agree to sign a listing agreement nor would Complainant agree to Respondent earning a commission, so Respondent helped Spouse sell the home without compensation and eventually withdrew from the process altogether due to Complainant's actions. Respondent provided a statement from Spouse, which included communication between Spouse's attorney and Complainant's attorney regarding the sale of the home.

Spouse states that Complainant's actions were "retaliatory, harassing in nature, and an absolute theft of (Respondent's) commission."

There is insufficient evidence of a violation of Commission Rules or the *Broker Act*, and Counsel recommends the complainant be dismissed.

**Recommendation: Dismiss.**

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

**28. 2023037191**

**Opened: 8/21/2023**

**First Licensed: 1/24/2019**

**Expires: 1/23/2025**

**Type of License: Affiliate Broker**

**History: None**

Complainant was the purchaser of property; Respondent was the designated agent for the seller. Complainant purchased the property in August 2022 and alleges that they asked for a tankless water heater to be installed as part of the purchase contract, and that the water heater "broke" after storms in January 2023. Complainant states that their electrician who came out to fix the water heater advised the Complainant that the water heater was not up to code and could have electrocuted Complainant. Complainant states that they contacted Respondent and asked for the seller to provide the receipt of installation and is upset that Respondent is "unwilling to work with the seller on this issue."

Respondent provided a copy of the Purchase and Sale Agreement which contains the addenda "contingent upon hot water working" and does not require a tankless water heater as part of the sale. Respondent also provided a copy of the Buyer's Final Inspection signed by Complainant and copies of text messages between Respondent and Complainant regarding the water heater issue that document Respondent's attempts to obtain the installer information from the Seller for Complainant.

It's unfortunate that Complainant is now facing a costly repair, but based on the provided documentation, Respondent has not violated any Commission Rule or the *Broker Act*.

**Recommendation: Dismiss.**

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

**29. 2023037491**  
**Opened: 8/21/2023**  
**First Licensed: 1/29/2019**  
**Expires: 2/26/2025**  
**Type of License: Real Estate Broker**  
**History: None**

Complainant stayed at a short-term rental now listed for sale by Respondent licensee. Complainant alleges that as of the date of their stay (July 27 through August 1) there is a large leak in the bathroom of the home that has resulted in dangerous black mold being present, and that information is not being disclosed to renters or to potential purchasers of the home in the MLS listing.

Respondent advised that they are the listing agent and not the property manager; that Sellers live out of state; Respondent did not see any mold when they viewed the property just prior to Complainant's arrival; and the Sellers had no knowledge of a leak or mold until alerted by the Complainant. Sellers have had repairs made to the home and will properly address any issues in a property condition disclosure update. Respondent provided copies of communication between Respondent and Sellers asking about their knowledge of any of a leak or mold and advising that if they want to continue to market or rent the home a licensed plumber/mold specialist will need to evaluate the home. Sellers then updated Respondent on the status of the repairs, including testing for mold. There is insufficient proof of any violation of Commission Rules or *Broker Act* by the Respondent.

**Recommendation: Dismiss.**

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

**30. 2023038391**  
**Opened: 8/21/2023**  
**First Licensed: 4/19/2021**  
**Expires: 4/18/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a licensee and was the listing agent of a property; Respondent is a licensee and was representing a Buyer. The home was listed in April 2022. Complainant alleges that Respondent submitted an all-cash offer on behalf of Buyer, with a closing in thirty (30) days. Complainant provided a copy of the purchase agreement which confirms it was an all-cash, financial contingency waived contract. Complainant alleges Respondent was difficult to reach after the offer was accepted, but when they were able to reach Respondent, Respondent always assured Complainant that everything was “fine” and the closing would proceed as planned. Complainant alleges that eight (8) hours before closing, Respondent called Complainant and stated that the buyer would not be able to make it to the closing and that a release would be sent over. Complainant asked why the closing date could not be extended but did not get an answer. After further questioning by Complainant, they allege Respondent admitted that Buyer had never made the deposit of earnest money; had not confirmed Buyer had the funds for the purchase; and had not spoken to Buyer, instead speaking with Buyer’s romantic partner who signed the purchase contract for Buyer. Complainant alleges they then spoke with Respondent’s principal broker, who seemed to confirm that after speaking with Respondent that it was Buyer’s romantic partner who signed on Buyer’s behalf. Complainant alleges Respondent’s actions caused immense hardship to sellers, one of whom was terminally ill during the whole process and ended up passing away just a few weeks later. Complainant’s client was eventually able to sell the property several months later for 10% less than the amount agreed upon by Respondent’s Buyer.

Respondent stated that they were told by client (“Spouse”) they were married to Buyer, and that Buyer was out of the country but would be returning soon. Respondent went forward with the purchase process even though they had not spoken with Buyer, citing their own inexperience and “stressful” personal events that were taking place at the time. Respondent did confirm that they only spoke with the Spouse and never saw Buyer. Respondent also confirmed that the night before closing they still had not received the deposit or proof of funds from Buyer or “Spouse”. Respondent stated they also learned from Spouse that Buyer was still out of the country and would not be at the closing the next morning. Respondent states they immediately called Complainant and their Principal Broker to inform them of the issues and did not believe extending the closing would help at that point. Respondent then contacted “Spouse” and learned that “Spouse” was not married to Buyer, had never seen Buyer in person and had sent Buyer money to entice Buyer to move closer to “Spouse”. Respondent alleges that “Buyer” was a scam artist that conned “Spouse”, contacted Complainant and “apologized for my actions and negligence.” Respondent, however, goes on to allege that the complaint has only

now been filed with the Commission because Complainant is now being sued by Seller, and alleges that Complainant is also angry about losing a client to Respondent.

**Recommendation: Discuss.**

**Commission Decision: The Commission voted to issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for failure to return earnest money and administratively open a complaint against Respondent's principal broker for failure to supervise.**

#### **TIMESHARES:**

**31. 2023032811**

**Opened: 7/31/2023**

**First Licensed: 4/20/1999**

**Expires: 12/31/2023**

**Type of License: Time Share Registration**

**History: None**

The complainant purchased a timeshare from Respondent on June 2, 2023, and canceled the contract within the ten-day rescission period. Complainant used a credit-card to make the purchase, and disputed the charge with their credit card company the same day they notified the Respondent of the cancellation. Complainant alleges that Respondent did not return the funds within thirty (30) days as required by Tenn. Code Ann. § 66-32-114. Complainant's credit card company issued Complainant a conditional credit for the purchase amount while they investigated the dispute.

Respondent, through their legal counsel, responded to the complaint. Respondent agreed that the cancellation was timely made and stated that they "processed the cancellation and refund of their account on June 13, 2023" and compliant the law.

Legal counsel contacted Complainant to confirm that they had received their refund. Complainant stated that their credit card company notified them on June 29 that the "conditional credit" was now permanent but could not determine if the credit card company wrote off the charge or were pursuing the money on their own. Counsel then reached out to Respondent's legal counsel, who provided confirmation of the refund applied to Complainant's account within the required thirty days of cancellation of the contract.

**Recommendation: Dismiss.**

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

**Aerial Carter  
New Complaints:**

**32. 2023028901  
Opened: 7/17/2023  
First Licensed: 7/13/2016  
Expires: 7/12/2024  
Type of License: Affiliate Broker  
History: None**

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges Respondent engaged in unprofessional behavior during a real estate transaction. Respondent was the Buyer and Complainant was the Seller.

Respondent did not submit a response. However, Counsel reviewed the complaint, and it appears that this real estate interaction was for the personal use. The main complaint was that Respondent was looking for homes outside of their price range and knew they couldn't get financing.

Based on the information provided, the Commission does not have jurisdiction over this matter. Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**33. 2023030811  
Opened: 7/17/2023  
Unlicensed  
History: None**

Complainant is a real estate professional. Respondent is unlicensed. Complainant alleges Respondent is engaged in unlicensed activity. Complainant stated that



Respondent listed a property for when they are not the owner of the property and only had a contract to purchase.

Respondent stated they did not represent themselves as the owner of the property. They used a brokerage to list the property and had authorization from the owner to place the property on the MLS.

When looking at wholesaling, the courts consider whether the unlicensed individual has a valid ownership interest in the subject property and how that wholesale transaction is executed. Case law states that when an assignor [or wholesaler] obtains ownership rights through a purchase agreement, they are contractually entitled to assign that right alone.

Based on the information provided, Respondent had a property interest in the listed property by having the contract to purchase the property. Respondent was engaged in wholesaling and is not in violation of statutes, rules, and regulations because the advertising is going through a licensed agency, and they have clearly stated that they are not the owner in the real estate transaction.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**34. 2023032371**  
**Opened: 7/17/2023**  
**First Licensed: 3/21/2006**  
**Expires: 3/20/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is Tennessee resident and prospective homebuyer. Respondent is an Affiliate Broker. Complainant alleges Respondent violated their duty by failing to provide notice that they would not be in the office although Respondent knew Complainant had a time sensitive deadline for viewing homes.

Complainant contacted Respondent to be their buyer's agent. Complainant wanted an agent who would not be absent during the month of May. Complainant alleges

that Respondent agreed that they would not go on vacation during that month. Complainant sent Respondent an email stating that they would be in town on a specific date but when they arrived, Respondent was not there and had not arranged for another agent to show the property.

Respondent stated an unexpected personal matter was discovered prior to Complainant's arrival but they would be available for a day to show properties. Respondent stated that she contacted Complainant multiple times and was aware that they would be out of town. Additionally, Respondent stated they contacted the listing agent to show Complainant the properties. Respondent was out of town for two (2) days.

Based on the information provided, Counsel finds Complainant's allegations related duty by failing to provide notice to be unfounded. Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**35. 2023032401**  
**Opened: 7/17/2023**  
**First Licensed: 10/13/2009**  
**Expires: 9/23/2024**  
**Type of License: Real Estate Broker**  
**History: None**

This matter is related to #202302869, a complaint brought to the Commission during the September 13, 2023, meeting. Complainant is Tennessee resident. Respondent is a Real Estate Broker. Complainant was listed as executor and shares ownership of real estate property. Respondent was hired by the other co-owner of the property to list the property. Complainant alleges Respondent had no legal right to list the property because they were not employed by Complainant and Respondent was unethical when they continued to list the property without their consent.

Respondent stated that they received a text from Complainant informing them that they were listed as the sole executor of the property. However, the co-owner still had a property interest of fifty percent (50%) while Complainant's property interest was twenty-five percent (25%). Respondent attached text messages and emails between

themselves and the Complainant which indicates that there was an agreement to have Respondent sell the property. Respondent had potential buyers lined up and was working on a contract when they were contacted by Complainant stating that they were using a different real estate agent because they were no longer comfortable that the co-owner previously hired Respondent.

Since the filing of this complaint, all parties have agreed enter a co-listing agreement. Based on the information provided, Counsel did not find Respondent to be in violation of any rules, regulations, or statutes.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**36. 2023033691**  
**Opened: 7/17/2023**  
**First Licensed: 5/28/2019**  
**Expires: 5/27/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a Tennessee resident. Respondent is an Affiliate Broker and managing Complainant's rental property. Complainant alleges Respondent did not provide notice that tenants were vacating the rental property although they had three (3) months remaining in the lease, did not provide the rental income for the three (3) months, and the rental property was left unclean.

Respondent stated they had no knowledge that the tenants intended to leave the property early as they had paid rent on time.

Based on the information provided, the Commission does not have authority of this matter falls into one of the exemptions under T.C.A. § 62-13-104. T.C.A. § 62-13-104(E) states the chapter does not apply to a resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex, or residential complex where the person's duties are limited to supervision, exhibition

of residential units, leasing or collection of security deposits and rentals from the property. T.C.A. § 62-13-104(a)(1)(E).

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**37. 2023031041**

**Opened: 7/24/2023**

**First Licensed: 2/4/2003**

**Expires: 1/10/2025**

**Type of License: Principal Broker**

**History: 2009 Letter of Warning; 2010 Consent Order for failure to maintain E&O insurance; 2020 Letter of Warning; 2020 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; 2022 Consent Order for failure to respond to a complaint; 2022 Consent Order for failure to supervise an affiliate due to lapse in affiliate's E&O insurance; 2022 Consent Order for failure to supervise an affiliate due to an advertising violation**

Complainant is a licensed real estate professional. Respondent is Principal Broker. Complainant alleges an individual advertises as a licensed Broker and Owner in an out of state firm. The complaint is against that individual.

Respondent's response asked that the Commission investigate the matter to determine if the individual has active licenses in two states and if employ necessary sanctions to that individual. Respondent also denied association with the individual.

Counsel investigated the licenses to determine if any relations existed. At the time of the complaint, Respondent was the Principal Broker for the individual. The individual has an active Broker license in an out of state firm and a license as an Affiliate Broker in Tennessee. This is in violation of T.C.A. § 62-13-309.

Under T.C.A. § 62-13-312 (b)(15) In the case of a licensee, failing to exercise adequate supervision over the activities of any licensed affiliate brokers within the

scope of this chapter (Chapter 62-13). Here, Respondent had a duty to properly supervise the individual and be aware of their activities.

Due to the lengthy history of Respondent's failure to supervise, Counsel recommends that the Respondent's Principal Broker license be downgraded to an Affiliate Broker. Counsel also recommends and administrative complaint be opened against the individual with two active licenses.

**Recommendation: Downgrade License to Affiliate Broker and Open an Administrative Complainant against proper Respondent.**

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

**38. 2023032251**  
**Opened: 7/24/2023**  
**First Licensed: 7/7/2020**  
**Expires: 7/6/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a Tennessee. Respondent is an Affiliate Broker. Complainant alleges Respondent attempted to circumventing rules and laws as established and published by the TN Real Estate Commission; refused to provide information for any licensed agent; Respondent failed to provide reason for rejecting Complainant's offer; Respondent made false claims about the suitability of advertised rental property; Respondent misrepresented the value of a property listed for sale. Respondent submitted a response to all allegations. Due to the number of allegations, each one will be discussed below.

### **Circumventing Rules and Laws**

Complainant did not provide any information to indicate Respondent was attempted to circumventing rules and laws as established and published by the TN Real Estate Commission. Counsel does not find merit in this allegation.

### **Refused to Provide Information**

Complainant did not provide any information to indicate that Respondent refused to provide information for any licensed agent. Based on the complaint and the response, Complainant and Respondent did not work together at any time. Counsel does not find merit in this allegation.

### **Rejecting Complainant's Offer**

Complainant alleged that Respondent failed to provide reason for rejecting Complainant's offer. After the offer was rejected by Respondent's client, Respondent notified Complainant via email that the offer was rejected. Complainant demanded an explanation and a notarized signature on a document.

Complainant cited T.C.A. § 62-13-203 however, that statute discusses the Commission's organization power. Counsel believes Complainant meant to cite Rule 1260-02-.08 which states in relevant part "[i]n the event an offer is rejected, the broker or affiliate broker shall request the seller to note the rejection on the offer and return the same to the offeror or the offeror's agent."

Respondent stated the offer Complainant sent did not have a place for Respondent's client to sign acceptance, rejection, or counter to the offer, nor was it signed by the Complainant. Based on Counsel's understanding of the rule, Respondent is only required to note the rejection and inform the offeror or the offeror's agent. There is no requirement to provide a detailed reason for the rejection.

### **False Claims about Advertised Rental Property**

Complainant alleged that Respondent made false claims about the suitability of advertised rental property. Complainant stated that Respondent posted an advertisement for a one (1) bedroom one (1) bathroom apartment with a separate entrance for potential rental income, or in-law quarters. Complainant attached municipal codes that Complainant believed shows the rental property is not in compliance. Respondent stated they have no knowledge of the code violations. The Commission has no authority over this matter. Counsel does not find merit in this allegation.

### **Misrepresentation Property Value**

Complainant alleged that Respondent misrepresented the value of a property listed for sale by Respondent. Complainant attached tax information regarding the property but nothing else. Respondent stated the tax assessment is not a reflection of

the current market value. Respondent denied any misrepresentation of the property value. Counsel does not find merit in this allegation.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**39. 2023033061**  
**Opened: 7/24/2023**  
**First Licensed: 2/8/2021**  
**Expires: 2/7/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is anonymous. Respondent is an Affiliate Broker. Complainant alleges Respondent misused their access to a real estate database to track Complainant and their family members. Complainant also mentioned they are pressing charges for allegedly attempting to kidnap Complainant's family member. Complainant did not include any additional information in the complaint.

Respondent's Principal Broker submitted a response on Respondent's behalf. Principal Broker stated that all allegations are false and have been filed by Respondent's estranged family member.

Based on the information provided, the Commission does not have jurisdiction over this matter and even if they did, Counsel finds all allegations to be unfounded. Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**40. 2023033881**  
**Opened: 7/24/2023**  
**First Licensed: 8/4/2015**  
**Expires: 8/3/2025**

**Type of License: Affiliate Broker**  
**History: None**

Complainant is a Tennessee resident and licensed real estate professional. Respondent is an Affiliate Broker. Complainant alleges Respondent violated the advertising rules and attached the signs they believed were in violation.

Respondent stated the allegations are correct and quickly removed all signs with advertising violations. Counsel reviewed the alleged advertising violation and found the sign did not have the firm name and the firm telephone number as listed on file with the Commission; did not have the firm name appear in letters the same size or larger than those spelling out the name of a licensee; and the ad referred to an individual licensee but did not list that individual licensee's name as licensed with the Commission. Respondent did not comply with the advertising rules, in violation of Tenn. Comp. R. & Regs. 1260-02. 12.

Based upon all these facts, Counsel recommends this Respondent be assessed a civil penalty of Five Hundred Dollars (\$500) and open an administrative complaint against Respondent's Principal Broker for failure to properly supervise.

**Recommendation: Civil penalty of Five Hundred Dollars (\$500.00) and open an administrative complaint against Principal Broker for failure to properly supervise.**

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

**41. 2023027271**  
**Opened: 7/31/2023**  
**First Licensed: 12/10/1999**  
**Expires: 1/9/2025**  
**Type of License: Principal Broker**  
**History: None**

Complainant is a Tennessee resident and a prospective home buyer. Respondent is Principal Broker. Complainant alleges Respondent's agent caused the Seller to reject their offer for a sale of property. Complainant submitted an offer in May 2023. The property was being sold by the owner. Complainant stated that Seller accepted their offer but on June 2, 2023, they were informed that the Seller accepted another offer.



Respondent stated they have no clue what the complaint is about and has nothing to do with their company, them, or any of their agents because all allegation happened before Seller contacted them.

Based on the information provided, it appears that Complainant's offer from May 2023 was not accepted as Complainant stated an individual did not send them an offer to sign. The individual mentioned is not associated with Respondent or their firm. It's unclear how the Respondent is involved in this matter. After reviewing the documents submitted, it seems like the parties did enter a Buyer Representation Mutual Agreement on June 7, 2023, but for a different property address. Respondent released Complainant from representation after allegations that Complainant were abusive to Respondent's agent.

Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**42. 2023033861**  
**Opened: 7/31/2023**  
**First Licensed: 4/27/2000**  
**Expires: 11/27/2024**  
**Type of License: Principal Broker**  
**History: None**

Complainant is a Tennessee resident. Complainant entered an agreement for Respondent to list and sell their property. Respondent is a Principal Broker. Complainant alleges that after signing an Exclusive Representation Agreement ("Agreement") with Respondent, Respondent failed to show the property or get any leads for potential buyers. Complainant asked Respondent to post an ad on social media and afterwards they received multiple leads. Complainant stated that she asked Respondent to release them from the Agreement and Respondent agreed. However, after the release, the leads stopped communicating with Complainant and they believe Respondent had something to do with it. Complainant also stated that Respondent posted disparaging remarks about them online asked that Respondent remove any of the post made.

Respondent's Principal Broker responded on Respondent's behalf. Respondent denies engaging in unethical behavior and tried to work with the Complainant to sell their home, but they were very difficult. Respondent stated the Complainant wouldn't allow showings of the property unless they were present, and it was difficult to schedule showings. Respondent stated that Complainant wouldn't allow them to come to the property to take pictures.

Counsel reviewed the online post that appears to be made by Respondent and contains statements that may lead a prospective buyer or agent from wanting to work with the Complainant. Counsel believes an advertising violation of T.C.A. § 62-13-312(b)(1) occurred when Respondent made a substantial misrepresentation regarding the Complainant on a public listing site. Counsel also believes Respondent failed to uphold their duty to their client by disclosing information regarding the Complainant in the advertisement that they only would have obtained after working with Complainant.

Counsel recommends that this matter be discussed.

**Recommendation: Discuss.**

**Commission Decision: The Commission voted to issue a Consent Order with a One Thousand Dollar (\$1,000.00) civil penalty for violation of T.C.A. § 62-13-312(b)(1) and a One Thousand Dollar (\$1,000.00) T.C.A. § 62-13-403(1). Additionally, the Commission voted to require Respondent complete a three (3) hour course in ethics within one hundred eighty days (180) above and beyond the required continuing education.**

**43. 2023034631**

**Opened: 7/31/2023**

**First Licensed: 2/10/1997**

**Expires: 10/25/2024**

**Type of License: Principal Broker**

**History: 2014 Agreed Order for Alleged Unlicensed Branch Office**

Complainant is a Tennessee resident and a home buyer. Respondent is a Principal Broker. Complainant alleges that they were asked if they wanted to purchase what they believed to be a kiln. They stated they did not need a kiln and declined the purchase. After the sale for the property, Complainant found out that the kiln was a wood burning furnace but did not work. Complainant also stated that there were

outside water pipes that had frozen and split and the kitchen floor was destroyed but neither the Seller nor Listing Agent disclosed the information.

The Respondent submitted a response but after reviewing it, it's clear that Respondent's agent acted as the listing agent, not the Respondent. The response stated that Complainant purchased the home without a home inspection and the Seller used a stand-alone HVAC unit. Respondent denied that either they or the Seller failed to disclose any information. The respondent stated that the Seller never used the wood burning furnace but used the gas furnace in the home that worked up until the day of closing.

Counsel reviewed the documents included and did not see where the Complainant waived their inspection nor did the disclosure state there was an issue with the central heating. Counsel believes a potential violation occurred, but the Respondent is not proper but may be in violation for failing to properly supervise.

Based upon all these facts, Counsel recommends this matter be dismissed and an administrative complaint be opened against the proper Respondent, the listing agent.

**Recommendation: Dismiss and Open Administrative Complainant Against Proper Respondent.**

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

**44. 2023035021**  
**Opened: 7/31/2023**  
**First Licensed: 7/24/2007**  
**Expires: 11/18/2024**  
**Type of License: Principal Broker**  
**History: None**

2023035021 (#44) and 2023035041 (#45) are related and contain the same allegations. Complainant is a Tennessee resident and prospective Buyer. Respondent is a Principal Broker. Respondent acted as a co-listing agent and represented the Seller. Complainant alleges Respondent improperly terminated their contract to purchase when they received the appraisal value, and the Seller did not agree with the value. The Complainant was entitled to three (3) days to respond but the Respondent put the property back on the market without proving the Complainant a chance to respond.

Respondent stated their Seller did not agree with the appraisal value because they did not think the appraiser included additional acreage. The Seller refused to adjust the selling price to match the value of the appraisal. Respondent sent text messages to Complainant's agent and based off the conversation assumed that Complainant's agent did not want to negotiate further. Respondent then contacted the Seller and Seller advised Respondent to put the property back on the market and reduce the price by five thousand dollars (\$5,000) the same night. The next morning, the status of the property was changed to "pending." Respondent denies terminating the agreement.

Respondent communicated with Complainant's agent via text message late at night where they discussed the appraisal value. A message from the Respondent stated, "Your buyer is probably going to want to terminate the contract." Complainant's agent attempted to get confirmation whether the Seller was going to challenge the appraisal value and Respondent said they "aren't challenging it." Respondent took that exchange as a written equivalent correspondence that the Buyer was not moving forward if the appraisal wasn't challenged.

Based on the information provided, Respondent failed to exercise due care during this real estate transaction. It's clear from the contract that Complainant had three (3) days to respond after the appraisal. Respondent acted without getting the proper confirmation from Complainant or their agent on how they wanted to proceed and relisted the property within twelve (12) hours based on an assumption they had.

Based upon all these facts, Counsel recommends this Respondent be assessed a Seven Hundred and Fifty Dollar (\$750) Civil Penalty for failing to exercise due diligence and an education course in Contracts above and beyond the requirements to be completed within one hundred and (180) days.

**Recommendation: Seven Hundred Fifty Dollar (\$750.00) civil penalty and education course in Contracts above and beyond the requirements to be completed within one hundred eighty (180) days.**

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

**45. 2023035041  
Opened: 7/31/2023  
First Licensed: 1/4/2013**

**Expires: 1/3/2025**

**Type of License: Affiliate Broker**

**History: None**

2023035021 (#44) and 2023035041 (#45) are related and contain the same allegations.

Complainant is a Tennessee resident and prospective Buyer. Respondent is a Principal Broker. Respondent acted as a co-listing agent and represented the Seller. Complainant alleges Respondent improperly terminated their contract to purchase when they received the appraisal value, and the Seller did not agree with the value. The Complainant was entitled to three (3) days to respond but the Respondent put the property back on the market without giving the Complainant a chance to respond.

Respondent stated their Seller did not agree with the appraisal value because they did not think the appraiser included additional acreage. The Seller refused to adjust the selling price to match the value of the appraisal. Respondent sent text messages to Complainant's agent and based off the conversation assumed that Complainant's agent did not want to negotiate further. Respondent's co listing agent then contacted the Seller and Seller advised Respondent to put the property back on the market and reduce the price by five thousand dollars (\$5,000) the same night. The next morning, the status of the property was changed to "pending." Respondent denies terminating the agreement.

Respondent's co listing agent communicated with Complainant's agent via text message late at night where they discussed the appraisal value. A message from the Respondent stated, "Your buyer is probably going to want to terminate the contract." Complainant's agent attempted to get confirmation whether the Seller was going to challenge the appraisal value and Respondent said they "aren't challenging it." Respondent took that exchange as a written equivalent correspondence that the Buyer was not moving forward if the appraisal wasn't challenged.

Based on the information provided, Respondent failed to exercise due care during this real estate transaction. It's clear from the contract that Complainant had three (3) days to respond after the appraisal. Respondent acted without getting the proper confirmation from Complainant or their agent on how they wanted to proceed and relisted the property within twelve (12) hours based on an assumption they had.

Based upon all these facts, Counsel recommends this Respondent be assessed a Five-Hundred Dollar (\$500) Civil Penalty for failing to exercise due diligence and an education course in Contracts above and beyond the requirements to be completed within one hundred and (180) days.

**Recommendation: Five-Hundred Dollar (\$500) civil penalty and education course in Contracts above and beyond the requirements to be completed within one hundred and eighty (180) days.**

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

**46. 2023036851**

**Opened: 8/7/2023**

**First Licensed: 1/12/2017**

**Expires: 3/2/2025**

**Type of License: Real Estate Broker**

**History: None**

Complainant a Tennessee resident and prospective home buyer. Respondent is a Real Estate Broker and was the Seller's agent. Complainant contacted Respondent to let them know they were interested in the listed property. Complainant alleges Respondent failed to put in their offer for the property after Sellers accepted their verbal offer, causing them to lose the opportunity to purchase the property.

Respondent stated that Complainant was unrepresented, and it was known that they represented the Seller and was the listing agent. Complainant contacted them because they were interested in making an offer. Respondent agreed to write up an offer if Complainant could provide them with a pre-approval letter from their lender.

Complainant and Respondent submitted screenshots of text messages. Based on the information provided, Respondent was discussing what a potential good offer would be for the listing. The Complainant did not provide a pre-approval letter and to Respondent. Respondent informed Complainant via text message that when they received the pre-approval letter, they would submit the offer to their client. While Complainant was waiting on the pre-approval letter from their lender, the Sellers received an offer that was accepted. Respondent did not make any misleading statements and it appears that they were clear in their role to the Complainant that they were protecting the Sellers' interests and had no duty to the Complainant.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**47. 2023035631**  
**Opened: 8/7/2023**  
**First Licensed: 9/23/2022**  
**Expires: 9/22/2024**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant is anonymous and a property manager. Respondent is Real Estate Firm. Complainant alleges Respondent is not properly managing one of their properties specifically, there is no communication regarding lease agreements. Additionally, the complaint alleged that there are individuals engaged in unlicensed practice.

Respondent stated they are no longer going to manage the property and have transferred management to a new company as agreed upon with the owner. Respondent denied any lack of communication and stated they communicated via emails and meetings. Respondent stated that none of the unlicensed individuals do any work that would require a real estate license. Those individuals act as a main point of contact for tenants after they move in but are in no way involved in any negotiations on rental rates or other terms. They simply handle the day-to-day items such as repairs, utilities, etc.

Based on the information provided, the Commission does not have authority over this matter as stated in T.C.A. § 62-13-104(E) because Respondent is a resident manager for an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**48. 2023036651**

**Opened: 8/15/2023**

**First Licensed: 2/1/2006**

**Expires: 8/28/2025**

**Type of License: Principal Broker**

**History: 2021 Consent Order for failure to supervise an affiliate due to lapse in affiliates E&O insurance; 2022 Consent Order for failure to supervise an affiliate due to advertising**

Complainant is Tennessee resident and prospective home buyer. Respondent is Principal Broker. Complainant alleges Respondent engaged in unethical behavior when the Seller withdrew their counteroffer. Complainant believes this was collusion and an attempt to "drive up the price of the property".

Respondent stated they represented the Seller. The Complainant had submitted an offer and the Seller sent a counteroffer. Before the Complainant had accepted or rejected the counteroffer, the Seller exercised their right to withdraw their counteroffer. The Seller then accepted an offer from a different buyer.

Counsel finds Complainant's allegations related to Respondent's unethical and immoral behavior to be unfounded. There was no binding agreement between the parties and accepting a higher offer is not tantamount to colluding with others to drive up the price.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**49. 2023037021**

**Opened: 8/15/2023**

**First Licensed: 5/24/2006**

**Expires: 5/23/2024 (E&O Suspension effective 8/15/2023)**

**Type of License: Affiliate Broker**

**History: None**



Complainant is a Tennessee resident and prospective home buyer. Respondent is an Affiliate Broker. Complainant alleges they signed an Exclusive Buyer's Agreement ("Agreement") with Respondent. Complainant became aware that Respondent was charged with fraud by the Commodity Futures Trading Commission. Complainant asked to be released from the Agreement but was told they were stuck and would have to pay Respondent if Complainant decided to buy a house.

Respondent stated they have released Complainant from the Agreement. Respondent denied the fraud charges and stated that they are not guilty of any crimes.

Counsel reviewed the article and case updates and as of August 25, 2023, the case is still ongoing with decisions to be made on non-dispositive and dispositive matters.

If the Respondent is found guilty, the Commission would have the authority to refuse a license for cause or to suspend or revoke a license where a licensee is "convicted in a court of competent jurisdiction of this or any other state or federal court of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses" or if licensee engaged in "any conduct, whether of the same or of a different character that constitutes improper, fraudulent or dishonest dealing" Tenn. Code. Ann. § 62-13-104(7)(B)(ix); Tenn. Code. Ann. § 62-13-104(7)(B)(xiii).

Based upon all these facts, Counsel recommends this matter be go to litigation monitoring based on the seriousness of the allegations.

**Recommendation: Litigation Monitoring.**

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

**50. 2023037321**  
**Opened: 8/15/2023**  
**First Licensed: 6/18/2018**  
**Expires: 6/17/2024**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a real estate professional and represented the Seller in a real estate transaction. Respondent is an Affiliate Broker and represented the Buyer. Complainant alleges Respondent refused to release five thousand dollars (\$5,000) of the escrow money after closing when they had no legal right to do so.

Respondent stated all parties signed a Temporary Occupancy Agreement because the Buyer was unable to do a final walkthrough because the Seller had not moved out by the agreed date. The Temporary Occupancy Agreement stated that the Seller would be moving their property within twenty-four hours and after that it would be two hundred dollars (\$200) per day.

Respondent denied withholding escrow money because they did not get the routing number for the title company until that afternoon of closing and any issue that occurred was not on their end.

Both parties attached text messages and emails. Based on the information provided, it was agreed that the Seller would fully move out by the 15<sup>th</sup>. The closing was set for the same day. However, when the Buyer went to the property, the Seller was still in the home and boxes throughout the house. Respondent asked for a Temporary Occupancy Agreement to be signed by all parties and informed the Complainant that they would withhold a portion of the escrow money because the Buyer was unable to do a final walkthrough inspection. Complainant had an issue with this agreement. It appears that Seller didn't vacate the property until the 20<sup>th</sup> and at that time the escrow money was released. It appears that Respondent was upholding their duty to protect their client's interests.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**51. 2023037071**  
**Opened: 8/15/2023**  
**First Licensed: 1/1/1901**  
**Expires: 7/10/2024**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant is an out of state resident. Respondent is Real Estate Firm. Complainant alleges Respondent fraudulently charged their bank card and Complainant was blocked on social media after they posted on Respondent's social media pages.

Respondent stated they are a real estate management company and denied any fraudulent activity. Respondent stated that tenants submit payments through a portal and the company doesn't have the ability to initiate payments. Respondent stated they have not received any payment and believes it's likely a tenant who may have incorrectly put in the wrong card information. Respondent did admit to blocking the Complainant on social media as the company deemed it proper because it was not done through the proper channels for initiating a complaint.

Based on the information provided, the Commission has no authority over this matter as it is one of the exemptions under T.C.A. § 62-13-104(E) because Respondent is a resident manager for an owner, or employee of a broker, who manages an apartment building, duplex or residential complex where the person's duties are limited to supervision, exhibition of residential units, leasing or collection of security deposits and rentals from the property. Additionally, this claim appears to be a criminal matter.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**52. 2023038101**  
**Opened: 8/15/2023**  
**First Licensed: 5/26/2023**  
**Expires: 5/25/2025**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant is a Tennessee resident. Respondent is a Real Estate Firm. Complainant alleges Respondent had no signage at "this location." Complainant gave no indication of which location they were referring to nor did they attach any photographs showing there were no signs.

Respondent stated that they have had a clear and visible sign on the door since they opened. Respondent has been working with a sign company since May 2023 to get the monument sign and a large sign on the building. They were told that the sign company has been very backed up and at the time of the response was hoping to have the sign within two weeks or earlier.

Under the Tennessee Rules, each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission. Tenn. Comp. R. & Regs. 1260-02-.03(1). Respondent attached a picture of the sign located on the firm's door along with multiple emails communicating with the sign company.

Based upon all these facts, Counsel recommends this matter be dismissed because they believe the sign meets the requirements.

**Recommendation: Dismiss.**

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

**53. 2023032141**  
**Opened: 8/15/2023**  
**Unlicensed**  
**History: None**

Complainant is a Tennessee resident. Respondent is unlicensed. Complainant alleges Respondent is advertising as short-term rental (STR) management although they are unlicensed. Complainant attached a screenshot of the alleged advertising violation and a text message asking Respondent whether they were licensed.

Respondent stated they are not attempting to hold themselves out as a licensed rental management company. Respondent stated they may occasionally refer clients to reputable property management firms but does not engage in property management activities directly. Respondent admitted that the wording in a social media post could have been construed as misleading. They promptly recognized this and took immediate action to rectify the situation.

Counsel reviewed the social media post that was attached and agrees that it could be considered misleading as it appears that one of the services offered is "STR management." Counsel looked at Respondent's website and there are no rentals on

their site and the main page of the website clearly states the following services: STR Property Prep, Janitorial Services, Cohosting Assistance, Home Preparation, and Professional Photography. Counsel reviewed the text message and Complainant clearly asked Respondent if they were “licensed in TN to manage STRs.” Respondent stated they were licensed and could help property owners receive the short-term rental permit.

Based upon all these facts, Counsel recommends this matter be resolved with a One Thousand Dollar (\$1,000) Civil Penalty, for unlicensed activity and to warn Respondent that advertising rentals on their website without the proper licensing could lead to future violations.

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

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

**54. 2023038801**  
**Opened: 8/21/2023**  
**First Licensed: 1/4/2023**  
**Expires: 1/3/2025**  
**Type of License: Affiliate Broker**  
**History: None**

Complainant is a Principal Broker. Respondent is an Affiliate Broker. Complainant alleges Respondent signed an affidavit that they were an absent broker knowing it was false. Respondent worked as an agent at Complainant’s firm and Respondent transferred their license to another firm. Complainant stated they submitted a broker release form via mail in August 2023. Counsel reviewed CORE and could find no documentation that the release being received by the Commission.

Respondent and their Principal Broker (“PB”) submitted responses. Respondent stated they transferred to another firm and sent Complainant the release via DocuSign June 16<sup>th</sup>. The notifications indicate that the email was received by the Complainant the same day. PB and Respondent stated that after ten (10) days they still didn’t receive a response so Respondent signed an affidavit for release.

Based on the information provided, Respondent and their PB followed the requirements set by the

Tenn. Comp. R. & Regs. 1260-02-.02. By Complainant's admission, they did not response or initial a real estate release form within ten (10) days of termination.

Based upon all these facts, Counsel recommends this matter be dismissed and an administrative complaint be opened against Complainant.

**Recommendation: Dismiss.**

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

**55. 2023038951**

**Opened: 8/21/2023**

**First Licensed: 1/26/2022**

**Expires: 1/25/2024**

**Type of License: Affiliate Broker**

**History: None**

Complainant is a Tennessee resident. Complainant was not a party to the real estate transaction but filed this complain on behalf of their family member who was the Seller. Respondent is an Affiliate Broker and acted as the Seller's agent. Complainant alleges Respondent pressured Seller into taking a lower price on the listed property, did not adhere to the standard commission fee of 5% and did not timely release the money after closing.

Complainant stated they did their own market value assessment and stated the value was \$474,000. Respondent submitted a response and stated that they met with the Seller prior to posting the listing and believed the value of the property would be around \$480,000. This amount was based on Comparative Market Analysis and an additional value of a fully finished basement. Respondent then spoke with an appraiser while at a professional event and the appraiser estimated the property's value to be around \$450,000. Respondent reached out to Seller and discussed what the listing price should be, and they agreed to \$450,000. The property was sold for \$464,000. Based off the documents provided by the Respondent, the list price was fair for the market. The Seller and Respondent agreed to the price and there was no evidence to suggest that Respondent used undue influence for a reduced price.

Complainant stated that Respondent did not adhere to the standard commission fee of 5%. Respondent stated they offered three listing packages, basic, standard, and premium which are 5%, 6%, and 8%, respectively. The Seller selected the standard

offer. Respondent and Seller did come to a compromise because they did not have to do an open house because they received an offer. The Commission cannot set fees or commissions for real estate contracts or transactions. Tenn. Code Ann § 62-13-204.

At closing, Complainant stated Seller signed a contingent agreement on another property and Seller was dependent on the money from the closing to move forward. Complainant stated that respondent knew the funds were necessary. Respondent stated that he had a conversation with Complainant but was not told that the money was needed. Complainant also did not let the Title Company know either. Respondent told Seller and Complainant that they could speak with the Title company and the funds could be released the upcoming Monday. Complainant was unhappy about the release of the funds and asked Respondent to provide the funds so Seller could move into their new home. Respondent informed Complainant that they did not have access to the funds and that only the Title company would have access at that point. Counsel finds that Respondent did not withhold the funds and attempted to work with all parties to have the funds released.

Counsel finds Complainant's allegations related to all allegations to be unfounded. Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**56. 2023039351**  
**Opened: 8/21/2023**  
**First Licensed: 8/24/1988**  
**Expires: 4/27/2025**  
**Type of License: Principal Broker**  
**History: None**

Complainant is a Tennessee resident and a homebuyer in a real estate transaction. Respondent is Principal Broker. Complainant alleges Respondent advised them to not get a home inspection prior to purchase of the property. Complainant stated they chose to use the appraisal as their home inspection and the appraisal came back that there were no repairs needed. After they moved in, Complainant found there were major issues with the home. Complainant attached the Purchase Agreement and a copy of the home inspection.

Respondent denied advising Complainant against a home inspection. They did tell Complainant that the Veterans Administration (“VA”) appraisers usually do a good job, but it would be up to the Complainant to decide what to do. Additionally, the Purchase Agreement advised Complainant of their rights to an inspection.

Based on the information provided, the Complainant chose to use the appraisal to replace the home inspection and the rights to a home inspection were included in the Purchase Agreement. Complainant signed that Purchase Agreement. Furthermore, home inspections are outside of the Respondent’s expertise.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**57. 2023040141**  
**Opened: 8/21/2023**  
**First Licensed: 4/17/1997**  
**Expires: 7/19/2024**  
**Type of License: Principal Broker**  
**History: None**

Complainant is a Tennessee resident and recently obtained ownership of several properties that were managed by Respondent. Respondent acted as the property management for previous property owner. Complainant alleges Respondent failed to communicate, return leases or other necessary documents, and has terminated their services.

Respondent denied all the Complainant’s allegations and stated they have tried multiple times to set up meetings so they can turn over all the requested documents. Respondent stated that Complainant failed to pay the management fee.

Based on the information provided, the Commission does not have authority of this matter falls into one of the exemptions under T.C.A. § 62-13-104. T.C.A. § 62-13-104(E) states the chapter does not apply to a resident manager for a broker or an owner, or employee of a broker, who manages an apartment building, duplex, or residential complex where the person's duties are limited to supervision, exhibition



of residential units, leasing or collection of security deposits and rentals from the property. T.C.A. § 62-13-104(E).

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**58. 2023033921**  
**Opened: 8/21/2023**  
**Unlicensed**  
**History: None**

Complainant is a licensed real estate professional. Respondent is unlicensed. Complainant alleges Respondent is engaged in unlicensed activity by managing property without a license or working under a licensed individual. Respondent was hired by Complainant's HOA to manage the properties. Respondent did not submit a response.

Here, the Respondent is not a broker or employee of a broker. Respondent does not meet the exemption in T.C.A. § 62-13-104(E). Therefore, Respondent was engaged in unlicensed activity in violation of T.C.A. § 62-13-301.

Counsel recommends this Respondent be assessed a One Thousand Dollar Civil Penalty for engaging in unlicensed activity.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for engaging in unlicensed activity.**

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

**59. 2023038271**  
**Opened: 8/21/2023**  
**Unlicensed**  
**History: None**

Complainant submitted this complaint on behalf of their recently deceased family member who was a tenant. Respondent is unlicensed. Complainant alleges Respondent refused to return the security deposit and taking advantage of the senior citizens that are tenants at the property.

Respondent submitted a response stating that the security deposits are non-refundable and denied any unethical behavior. The Commission does not have authority to return security deposits and Counsel believes this matter is better suited for civil court. However, Counsel finds Respondent in violation for engaging in unlicensed activity.

Based on the information provided, there is no indication that the Respondent is the owner, a broker or employee of a broker. Respondent does not meet the exemption in T.C.A. § 62-13-104(E). Therefore, Respondent was engaged in unlicensed activity in violation of T.C.A. § 62-13-301.

Counsel recommends this Respondent be assessed a One Thousand Dollar Civil Penalty for engaging in unlicensed activity.

**Recommendation: One Thousand Dollar (\$1,000.00) civil penalty for engaging in unlicensed activity.**

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

#### **TIMESHARES:**

**60. 2023026791**  
**Opened: 6/26/2023**  
**First Licensed: 9/29/2009**  
**Expires: 9/28/2025**  
**Type of License: Real Estate Firm**  
**History: None**

Complainant is an out of state resident. Complainant entered the first transaction with the Respondent on November 11, 2018, and they purchased a pre-paid vacation package which enabled Complainant to experience timeshare on a trial basis.

Complainant redeemed their pre-paid vacation package July 2021 and they elected to trade-in the package and applied the accrued equity towards the purchase of an

annual standard beneficial interest (“Upgrade”). The Upgrade entitled Complainant to club points for use in the Respondent’s program.

Respondent’s Representative (“Representative”) said following the Upgrade, Complainant contacted the Respondent to rescind the Upgrade within the rescission period. Respondent’s purchase of the Upgrade was canceled, and the initial contract was reinstated reverting them back to the same position that they were in prior to the December 2022 purchase transaction. Counsel reached out to Representative for additional information to determine if Complainant was entitled to rescind their timeshare when the Upgrade was properly cancelled within the rescission period.

Representative attached multiple documents including the contract for the Upgrade. On a page titled, Schedule of Estimated Closing Expenses, there is a paragraph that states in relevant part, “Purchaser’s existing purchase agreement, promissory note, and mortgage or deed of trust will remain in effect until formally canceled or satisfied by Seller.” Complainant initialed beside this paragraph.

Based on the information provided, Complainant is outside of the ten (10) day rescission period under T.C.A § 66-32-114 for the original contract.

Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

- 61. 2023029721**
  - Opened: 8/21/2023**
  - First Licensed: N/A**
  - Expires: N/A**
  - Type of License: Time Share Registration – Time Share Exempt**
  - History: None**

Complainant is a Tennessee resident. Complainant stated that they initially entered a contract with Respondent on December 26, 1986. On September 15, 2020, Complainant upgraded their contract. On December 10, 2021, Complainant received a maintenance bill that they did not believe was proper. Complainant stated that they no longer see the value in the property and see the timeshare as a financial burden.

Respondent attorney responded on the Respondent's behalf ("Representative"). Representative stated that Complainant has been an owner since September 15, 2020. Representative asserts that the Complainant is outside the rescission period, so they are unable to terminate the contract. However, Representative stated that Complainant could get information about options to sell their interest in the timeshare.

Based on the information provided, Complainant is outside of the ten (10) day rescission period under T.C.A § 66-32-114.

Based upon all these facts, Counsel recommends this matter be dismissed.

**Recommendation: Dismiss.**

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

**Vice-Chairman Farris adjourned the meeting at 10:01am EST.**