Department of Commerce & Insurance

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 February 20, 2024, at 8:30 a.m. CST in room 1-A of the Davy Crockett Tower at 500 James Robertson Parkway, Nashville, TN 37243. In addition, the meeting was streamed electronically via the Microsoft Teams meeting platform. Executive Director Denise Baker read the public disclaimer and called the roll. The following Commission members were present: Chairman Geoff Diaz, Vice-Chairman DJ Farris, Commissioner Joan Smith, Commissioner Steve Guinn, Commissioner Joe Begley, Commissioner Kathy Tucker, and Commissioner Michael Gaughan. Commissioner Jon Moffett, and Commissioner Stacie Torbett were absent. Quorum Confirmed. Others present are Associate General Counsel Anna D. Matlock, Associate General Counsel Kimberly Cooper, Associate General Counsel Aerial Carter, Paralegal Carol McGlynn, Education Director Ross White, and TREC staff member Aaron Smith.

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

The motion to approve the February 20, 2024, agenda was made by Commissioner Smith and seconded by Commissioner Tucker. The motion passed unanimously.

The January 10, 2024, Commission meeting minutes were submitted for approval.

The motion to approve the January 10, 2024, minutes was made by Vice-Chair Farris and seconded by Commissioner Smith. The motion passed unanimously.

INFORMAL APPEARANCE

Matthew Bowling appeared before the Commission with his Principal Broker, Patrick Welsh, to receive approval for his Affiliate Broker license.

The motion to approve Matthew Bowling was made by Commissioner Begley and seconded by Commissioner Gaughan. The motion carried unanimously.

April Pirwitz appeared before the Commission with her Principal Broker, Tamara Senibaldi, to receive approval for her Affiliate Broker license.

The motion to approve April Pirwitz was made by Vice-Chair Farris and seconded by Commissioner Tucker. The motion carried unanimously.

Paul Williams appeared before the Commission with his Principal Broker, John Bobby Hill, to receive approval for his Affiliate Broker license.

The motion to approve Paul Williams was made by Commissioner Guinn and seconded by Vice-Chair Farris. The motion carried unanimously.

Bryan Haas appeared before the Commission with his Principal Broker, Katelyn Hamby, to receive approval for his Affiliate Broker license.

The motion to approve Bryan Haas was made by Commissioner Gaughan and seconded by Commissioner Begley. The motion carried unanimously.

Nolan Starnes appeared before the Commission with his Principal Broker, Bobby Gobble, to receive approval for his Affiliate Broker license.

The motion to approve Nolan Starnes was made by Commissioner Smith and seconded by Vice-Chair Farris. The motion carried unanimously.

WAIVER REQUEST

Executive Director Denise Baker presented Hernett McKinney to the Commission seeking a medical waiver for fees.

The motion to approve the waiver was made by Vice-Chair Farris and seconded by

Commissioner Gaughan. The motion carried unanimously.

Executive Director Denise Baker presented Allison Norton to the Commission seeking a waiver due to lapse of Errors and Omissions Insurance.

The motion to deny the waiver was made by Commissioner Guinn and seconded by Commissioner Smith. The motion passed 6-1 with Vice-Chair Farris voting no.

Executive Director Denise Baker presented Paula Dulaney to the Commission seeking a waiver for medical care.

The motion to deny the waiver was made by Commissioner Begley and seconded by Commissioner Guinn. The motion passed 6-1 with Vice-Chair Farris voting no.

Executive Director Denise Baker presented Nancy McGrath to the Commission seeking a waiver of fees and testing due to medical care.

The motion to deny the waiver was made by Commissioner Smith and seconded by Commissioner Guinn. The motion passed 6-1 with Vice-Chair Franks voting no.

Executive Director Denise Baker presented Anne McGugin to the Commission seeking a refund of late penalties due to medical care.

The motion to approve the refund request was made by Vice-Chair Farris 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 F1-F51 was made by Commissioner Smith and seconded by Commissioner Tucker. The motion passed unanimously.

Education Director Ross White presented the Instructor Bios for approval.

The motion to approve the Instructors Bios was made by Commissioner Guinn and seconded by Vice-Chair Farris. The motion passed unanimously

EXECUTIVE DIRECTOR'S REPORT
Executive Director Denise Baker updated the Commission on the topics below.

TREC April Meeting – The Commission was reminded that the April meeting would take place at Davy Crockett Tower on April 10, 2024

May TREC Meeting – Executive Director Baker advised the West Tennessee meeting will take place in Jackson, TN at the Jackson City Hall, in addition the day prior to the meeting a 1hr TREC Panel Discussion will be held . This will include: TREC Executive Director, Associate General Counsel Anna Matlock, and Education Director Ross White.

TREC TN High School Licensing Program – The Commission was advised that the program will open to all 95 counties for graduating Seniors to pursue a career in Real Estate.

TREC RFP – Executive Director Denise Baker advised RFP for an Education Provider will open within the next 30days.

March 2024 TREC Meeting – Executive Director Baker revisited the potential of canceling the March meeting and merging it into the April meeting. A roll-call vote was initiated. The motion was made by Commissioner Begley and seconded by Vice-Chair Farris. The motion passed unanimously. Therefore, the March meeting is cancelled.

Update of the Education Recovery Account—Executive Director Baker advised the Commission as of January 25, 2024, the account has $787,716.

LEGAL SECTION:

Mediation and Surety Bond
Presented By: Associate General Counsel Anna Matlock

The Commission approved for legal counsel, when deemed appropriate, to utilize mediation as a settlement tool after filing a matter with the Administrative Procedures Division in two (2) of the three (3) areas where an administrative law judge sits on behalf of the Commission. Specifically, for complaints and cases related to (1) lapses in errors and omissions insurance and (2) failure to respond to a complaint. The Commission delegated their mediation approval authority to Executive Director, Denise Baker. If the parties, counsel for the Commission and the Respondent decide to attend mediation, Ms. Baker will approve any settlement authorized different from what is voted upon or dictated by the Commission. Commissioner Guinn made the motion to approve legal counsel's recommendation to permit mediation for errors and omissions-related cases and failure to respond to a complaint case, seconded by Vice-Chairman Farris. The motion passed unanimously.

The Commission approved the usage of a surety bond as an alternative financial assurance as stated in Tenn. Code Ann. § 66-32-113(e). This statutory provision of the *Tennessee Time-Share Act of 1981* states, "In lieu of any escrows required by this section, the commission shall have discretion to accept other financial assurances…in an amount at least equal to or in excess of the cost to complete the time-share project." Commissioner Begley made the motion to approve the surety bond, seconded by Commissioner Smith. The motion carried 6-1, Commission Guinn voting against.

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 1-52 except for the following complaints, which were pulled for further discussion: **2023041751, 2023054971, 2023054611, 2023054841, 2023056211, 2023056911, 2023058191, 2023058731 and 2023060221.**

The motion was made by Commissioner Smith and seconded by Commissioner Begley. The motion carried unanimously.

After further discussion by the Commission on complaint 2023041751, Commissioner Smith motioned **to accept the Counsel's recommendation.** Commissioner Gaughan seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023054971, Commissioner Smith motioned **to close and flag the complaint.** Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023054611, Commissioner Tucker motioned **to accept the Counsel's recommendation.** and Commissioner Smith seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023054841, Commissioner Begley motioned **to accept the Counsel's recommendation** Commissioner Guinn seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023056211, Commissioner Smith motioned **to accept the Counsel's recommendation,** and Commissioner Tucker seconded the motion. The motion was carried unanimously.

After further discussion by the Commission on complaint 2023056911**,** Commissioner Tucker motioned **to issue a Consent Order with a civil penalty of One Thousand Dollars ($1,000.00) for failure to respond within ten (10) days in violation of T.C.A. § 62-13-313.** Commissioner Guinn seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023058191, Commissioner Smith 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 2023058731, Commissioner Smith motioned **to issue a civil penalty of One Thousand Dollars ($1,000.00) for failure to respond and a civil penalty of Five Hundred Dollars ($500.00) for failure to supervise, for a total of Fifteen Hundred Dollars ($1500.00),** and Commissioner Begley seconded the motion. The motion carried unanimously.

After further discussion by the Commission on complaint 2023062151, Commissioner Smith motioned **to accept the Counsel's recommendation,** and Commissioner Tucker seconded the motion. The motion carried unanimously.

Kim Cooper
New Complaints:

1. **2023041751**
   Opened: 9/18/2023
   First Licensed: 8/5/2008
   Expires: 8/4/2024
   Type of License: Affiliate Broker

History: 2022 Letter of Warning

Complainant alleged that Respondent had been convicted of “money laundering and drug trafficking”.

Respondent confirmed that they did have criminal convictions and stated that they “do not reflect the reality of my character or my professional conduct.” Respondent alleged that the “money laundering” conviction was from an out of state incident in 2016 but when Counsel requested additional information on three separate occasions Respondent did not respond. Counsel could not find proof in Respondent’s file that this conviction was ever reported to the Commission. Respondent was placed on probation for a period of eight years, effective September 21, 2022, for drug-related offenses. Respondent did not report these convictions to the Commission but was not required to do so pursuant to Tenn. Code Ann. § 62-13-312(b)(12).

Recommendation: Revocation for failure to report conviction pursuant to Tenn. Code Ann. § 62-13-312(b)(12).

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

2. 2023047661
Opened: 10/19/2023
First Licensed: 10/4/2023
Expires: 10/3/2025
Type of License: Vacation Lodging Service Firm
History: None

Complaint is related to **REC-2023047691, REC-2023051731, and REC-2023047801.**

Complainant #1 is a former employee of Respondent. Complainant alleges that Respondent acted as an unlicensed Vacation Lodging Service Firm from July 2023 until October 2023. Complainant also alleges that Respondent is co-mingling payments for the rentals with their personal funds, is not properly managing an escrow account, and attempted to use Complainant’s personal identification to set up an account on AirBnb after being suspended from the service for failure to adhere to their guidelines. Complainant #1 also alleged that Respondent did not actually complete the designated agent training or take the test themselves but paid someone else to do so. Complainant #1 asks that the Commission not renew Respondent’s license.

Respondent denied using Complainant’s personal identification to set up an AirBnb account, and claims they are in good standing with AirBnb. Respondent provided a recent copy of what appeared to be the escrow account for their company, and it appeared to be in order. Respondent admitted that the firm license expired in July 2023 but claims that were not aware of that lapse because Complainant #1 was the office manager, was not terminated until September 2023, and did not advise them that the license had expired. Respondent apologized for the error. Counsel recommends the Respondent be assessed a civil penalty of one thousand dollars ($1,000) civil penalty for engaging in unlicensed activity in violation of Tenn. Code Ann. § 62-13-301.

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

Commission Decision: The Commission accepted counsel's recommendation.

3. **2023047691**
Opened: 10/19/2023
First Licensed: 10/4/2023
Expires: 10/3/2025
Type of License: Vacation Lodging Service Firm
History: None

Complaint is related to **REC-2023047661, REC-2023051731, and REC-2023047801.**

Complainant #2 is the owner of a property managed by Respondent. Complainant signed a contract with Respondent in March 2023 for their services but became aware in September 2023 that Respondent's license expired in July 2023. Complainant #2 has terminated Respondent's services and filed this complaint "to make the board aware of the issue".

Respondent agreed that their license expired and that they failed to timely renew. They apologized for the error.

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

Commission Decision: The Commission accepted counsel's recommendation.

4. **2023051731**
Opened: 10/23/2023
First Licensed: 7/26/2021
Expires: 7/25/2025
Type of License: DA VLS Designated Agent
History: None

Complainant #2 alleges that after filing REC-2023047691 regarding unlicensed activity and terminating Respondent's services, Respondent retaliated against them by deactivating their AirBnb listing and refusing to release "payouts" for bookings that were already completed. Complainant also alleges that Respondent double billed Complainant #2 for repairs and services provided to Complainant #2. Complainant #2 alleges that Respondent is trying to "enforce a contract that (Respondent) breached" and has defamed Complainant #2's character by calling them "mentally unstable". Complainant #2 has contacted an attorney to pursue civil remedies against Respondent. Copies of communications between Complainant #2 and Respondent's company were provided that demonstrate a deteriorating working relationship and requests for payouts to be forwarded to Complainant #2.

Respondent alleged that Complainant #2 has lied about their business relationship and has been difficult to work with. Respondent provided a lengthy explanation/history of events since the initial complaint was filed, but the bulk of the dispute between the parties appears to be contractual issues beyond the jurisdiction of the Commission. Payouts were processed by AirBnb to Complainant #2, and so that matter appears to have been resolved even if not to Complainant #2's satisfaction.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

5. 2023047801
Opened: 10/19/2023
First Licensed: 10/4/2023
Expires: 10/3/2025
Type of License: Vacation Lodging Service Firm
History: None

Complaint is related to **REC-2023047691, REC-2023051731, and REC-2023047661.**

Complainant #3 is the owner of a property managed by Respondent. Complainant signed a contract with Respondent in April 2022 for their services and communicated primarily with Complainant #1 who was the office manager. Complainant #3 alleges that Respondent was unprofessional and evasive about AirBnb issues; does not maintain an escrow account; and "stole money from us, by marking up bills after we checked, lied to us & slandered our cabin." Complainant #3 became aware in September 2023 that Respondent's license expired in July 2023 and terminated Respondent's services. Complainant #3 alleged several other matters that are contractual disputes and outside the jurisdiction of the Commission.

Respondent agreed that their license expired and that they failed to timely renew. They apologized for the error and stated that they have put a system into place so that it will not happen again. Respondent denied acting unethically or stealing funds and alleges that Complainant #1 has lied to Complainant #3 to "turn them against" Respondent and file this complaint. Respondent provided a copy of their contract with Complainant #3; invoices provided to Complainant #3; and a breakdown of payouts to clients. The documents appeared to be in order but did confirm that Respondent billed for services provided to Complainant #3 while they were not properly licensed.

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

Commission Decision: The Commission accepted counsel's recommendation.

6. 2023054971
Opened: 11/14/2023
First Licensed: 5/19/1999
Expires: 1/21/2025
Type of License: Principal Broker
History: 2014 Consent Order for allegations of negligence in explaining the terms of a purchase to clients; 2015 Consent Order for failure to supervise the actions of an affiliate; 2016 Consent Order for failure to supervise the actions of an affiliate; 2021

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

Complainant was a purchaser of a home. Respondent's affiliate broker was the agent for the seller. Complainant alleged that Seller refused to make repairs to the home that were required by the lender prior to closing and did not respond to a request to extend closing so that the repairs could be completed. The loan could not be closed, and Complainant asked for a return of their earnest money. Complainant alleged they acted in good faith, but that Respondent was withholding the earnest money and refusing to advise their client to sign the Mutual Release of Trust Money.

Respondent stated that the Complainant's agent sent the mutual release "five days after the contract expired" and knew that it was too late to request the release. Respondent's short statement essentially implied it was the Complainant's agent's fault that the mutual release was not executed. Counsel contacted Complainant for a rebuttal and additional information but as of the drafting of this report that request has not been acknowledged. Based on the information provided there is insufficient evidence at this time of a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

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

7. 2023053731
Opened: 12/4/2023
First Licensed: 10/1/2020
Expires: 9/30/2024
Type of License: Affiliate Broker
History: None

Complainant was the purchaser of a home; Respondent was their agent. Complainant alleges that Respondent let Complainant know that they would be working with Respondent and another less-experienced agent in their firm ("Agent B") with Complainant's search for a home. Complainant communicated primarily with Agent B and stated that Respondent was not responsive in their communications with Complainant. Complainant eventually purchased a condo that was one of four units and expressed their concern prior to the purchase that the other units should not be short-term rentals; Complainant alleges that the other agent assured them they were long-term rentals. After moving into the condo, Complainant learned that all three of the units were active short-term rentals. Complainant alleges that Respondent and Agent B both knew of the short-term rentals prior to Complainant's purchase of the property. Complainant stated that "I would not have bought this property if I'd known that even one of the other units was a STR, so I'm devastated that this was concealed from me during the sale." Complainant alleges that Respondent mislead Complainant and did not act in Complainant's interest.

Respondent's attorney responded on Respondent's behalf. Respondent denied misleading Complainant and stated that Complainant never expressed any concern that they did not want to purchase the property if the other units were short term rentals. Respondent provided copies of communications and texts messages between Complainant, Respondent and Agent B where

Respondent appears to have responded promptly to Complainant's questions and concerns, and included an exchange wherein Complainant asked if the other units were rentals or permanent residents and Respondent stated that two were short-term rentals and one was long-term. Complainant responded: "Perfect, thank you!"

Based on the information provided there is insufficient evidence of a violation of the *Broker Act* or Commission Rules.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

8. 2023054611
Opened: 12/4/2023
First Licensed: 10/26/2004
Expires: 12/14/2024
Type of License: Principal Broker
History: None

Complainants allege that Respondent posed as a licensed contractor as well as a licensed agent and was hired to perform remodeling work on their property. Respondent billed Complainant $10,000 as an initial installment but then did not complete any work. Complainants allege fraud and misrepresentation.

Respondent did not respond to the complaint and certified mail sent to Respondent was returned unclaimed.

Recommendation: One Thousand Dollar ($1,000.00) civil penalty for failure to respond in violation of Tenn. Code Ann. § 62-13-313(a)(2).

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

9. 2023054551
Opened: 12/11/2023
First Licensed: 6/20/2017
Expires: 6/19/2025
Type of License: Affiliate Broker
History: None

Complainants were the purchasers of a home listed by Respondent. Complainants allege that Respondent knowingly did not disclose various repairs due to "flooding" and defects in the home prior to closing; they have since had to make additional repairs to the flooring, tile and walls due to a water leak that existed prior to closing; and that agreed upon repairs were not made in a timely fashion. Complainant also stated that they "found out after moving in that the seller hasn't lived in the home for over a year". Complainant was represented by their own agent. Complainant provided a picture of the Tennessee Residential Property Condition Disclosure form, and the Seller indicated that they were not aware of any defects or malfunctions of the nature referenced by the Complainants. Seller did disclose, however, that the home was not owner occupied and that they had not lived in the home in over a year. Complainant is alleging fraud and misrepresentation in violation of Tenn. Code Ann. § 62-13-403(1) that requires the exercise of reasonable skill and care in providing services to all parties to the transaction.

Respondent denied any wrongdoing, and states Seller never indicated that there was any "flooding" in the home. Respondent stated they initially listed the home for the Seller in late 2022 and did know that during the winter freeze in December 2022 a pipe froze and then leaked into the hall bathroom on the main floor. Respondent inspected the home at the request of the out-of-state homeowner, saw some water damage but no standing water, and immediately let Seller know that there was a problem. Respondent took the home off the market at the request of Seller who then coordinated all the repairs and at Seller's request listed the home again in April 2023. Respondent provided an itemized list and invoice of the work done to the Complainants' agent two weeks before closing, the Complainant's agent confirmed that Complainants had received and reviewed the document and Complainants elected to go forward with the purchase. The requests for repairs made in the Addendum were completed prior to closing; an additional request was made after the final walk-through on the day of closing and was completed at Seller's expense after closing.

Based on the information provided there is insufficient evidence of a violation of the *Broker Act* or Commission Rules.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

10. 2023054841
Opened: 12/11/2023
First Licensed: 7/31/1998
Expires: 11/29/2024
Type of License: Principal Broker
History: None

Complaint is related to **REC-2023054551, above.**

Respondent is the Buyer's Agent. Complainant alleges that termite damage was found during an inspection and that Respondent offered to set up termite treatment for the home but did not do so; that a final walkthrough was not done because Respondent would not make themselves available to do so; and that Respondent mislead them about the extent of the repairs done to the home by Seller. Complainant alleges that Respondent did not do their "due diligence" or protect their interests in the transaction.

Respondent denied any wrongdoing and asserted they worked diligently on Complainant's behalf. Respondent provided copies of communications between themselves and Complainant discussing many of the issues Complainant now reports, including the lack of a final inspection. Respondent suggested a day for the final walk-through and was told by Complainant that they "were good not having the walk thru." Copies of communications also show that Respondent passed along invoices detailing the restoration work that was done to the home after the water leak. Respondent did review the property disclosure and "there were no items in the disclosure that prompted questioning." Finally, there were exchanges about the need for a termite inspection, but no promises by Respondent of "taking care of it" for the Complainant. While the Complainant's frustrations with their home are clear, based on the information provided there is insufficient evidence of a violation of the *Broker Act* or Commission Rules.

Recommendation: Dismiss.

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

11. 2023056211
Opened: 12/11/2023
First Licensed: 9/1/1995
Expires: 4/23/2025
Type of License: Principal Broker
History: None

Complainant alleged that Respondent is using a picture of Complainant's house to sell a similar property in the same subdivision and has the same design. Complainant states that "in the near future intend to sell my house and this will have a negative impact on my sale, based on the fact she has my home listed for less than I intend to sell for." Complainant does not know Respondent and did not give permission for the picture to be used in Respondent's listing.

Respondent did not respond to the complaint, and the certified letter sent to Respondent was returned "unclaimed".

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

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

12. 2023060781
Opened: 12/11/2023
First Licensed: 11/26/2013
Expires: 11/25/2025
Type of License: Affiliate Broker
History: None

Complainant alleged that Respondent shared a homophobic and "hateful" post on their Facebook page. Complainant alleged that the post would make "any person feel threatened… if a gay or lesbian couple walk in the door to an open house, how will (Respondent) act?" Complainant alleges unethical conduct by Respondent.

Respondent confirmed that they shared the post to their personal Facebook page, and that it was an expression of their personal opinion. Respondent stated that they have and would continue to serve buyers and sellers in their community "without regard to their personal beliefs and lifestyle choices" and that the post was not "meant to be offensive in nature to anyone". Counsel reviewed a screenshot of the post, and it was not directed at any person and was not threatening in nature. There is no evidence of a violation of Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

13. 2023060001
Opened: 12/19/2023
First Licensed: 2/19/2016
Expires: 2/18/2026
Type of License: Affiliate Broker
History: None

Complainant alleged that Respondent failed to abide by advertising rules by not clearly identifying their brokerage or firm phone number on their Facebook page. Complainant provided a screenshot of a webpage advertising a home for sale and states "contact me for details" but does not identify the Respondent as a licensee or provide any information about their firm or the firm telephone number.

Respondent stated that the home listed for sale was one that they owned and advertised through the Marketplace on Facebook. Respondent acknowledged that the brokerage information should have been included on the listing and corrected the error.

Recommendation: Five Hundred Dollar ($500.00) civil penalty for violation of Tenn. Comp. R. & Regs. 1260-02-.12(3)(b).

Commission Decision: The Commission accepted counsel's recommendation.

14. 2023060361
Opened: 12/19/2023
First Licensed: 1/19/2021
Expires: 10/19/2024
Type of License: Principal Broker
History: None

Complaint is related to **REC-2023060391.**

Complainant signed a one-year contract with Respondent's company in August 2022 to manage five properties, with Respondent named as the primary manager/contact for Complainant and tenants. Complainant alleges that Respondent continued to collect rent from tenants and deducted their management fees from those funds even after they were terminated by Complainant.

Respondent denies improperly collecting fees and provided copies of bills and invoices detailing their management history with Complainant. A review of the documents confirms that this matter is primarily a contractual dispute between the parties and is not within the jurisdiction of the Commission.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

15. 2023052701
Opened: 12/19/2023
First Licensed: 9/30/2020
Expires: 9/29/2024
Type of License: Real Estate Firm
History: None

Complainant alleges that Respondent placed their business card in Complainant's mailbox without permission from Complainant. Complainant stated that "nobody should be opening people's mailboxes" and that Respondent may have committed a federal crime.

Respondent stated that they spoke with a neighbor of Complainant's who asked that Respondent leave a card in their mailbox, and so when Respondent was in the neighborhood later that day, they placed a card in what they thought was the requester's mailbox. Respondent apologized for their error. Based on the information provided, there does not appear to be a violation of the Commission Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

16. 2023060961
Opened: 1/2/2024
First Licensed: 5/14/2014
Expires: 9/2/2024
Type of License: Real Estate Firm
History: None

Complainant is a former tenant of a property that Respondent managed and alleges that after Complainant moved out of the property in 2019, Respondent filed an eviction notice that was never served on Complainant. Complainant alleges that Respondent's actions have resulted in a negative credit history and difficulty finding suitable housing.

Respondent did not respond to the complaint but a signed certified mail receipt for delivery of the notice of complaint was returned.

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

Commission Decision: The Commission accepted counsel's recommendation.

17. 2023061121
Opened: 1/2/2024
First Licensed: 7/19/2004
Expires: 10/15/2024
Type of License: Real Estate Firm
History: 2023 Consent Order for Advertising Violation

Complainant's grandparent passed away, and a member of Respondent's firm worked with the executor of the estate to handle the sale of grandparent's home. Complainant alleges that one of Respondent's employees is also a family member and that Respondent "knew" how the estate should be handled but did not follow the grandparent's directions provided in the will.

Respondent confirmed that they participated in the sale of grandparent's home pursuant to the estate proceedings and at the direction of the executor of the estate. The employee/family member is not a licensed agent and works in an administrative capacity. Respondent provided a copy of grandparent's will and other estate documents, and documents pertaining to the sale of the home and the distribution of assets. All the documents appear to be in order, and the executor had the authority to sign off on the sale of the home per the probate court Order. There are no apparent violations of Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

18. 2023061991
Opened: 1/2/2024
First Licensed: 10/2/1996
Expires: 5/5/2025
Type of License: Real Estate Firm
History: None

Complainant was a buyer, Respondent firm's agents represented both the sellers and the Complainant. Complainant alleges that Respondent worked against Complainant's interests. Complainant alleges that they were unable to obtain approval for a VA loan, and as a result their agent and seller's agent "began to collude in attempt to coerce and threaten us with litigation if we didn't close and/or sign a release" of the escrow finds to the sellers. Complainant alleges financial abuse and failure to maintain loyalty to the interests of the client in violation of Tenn. Code Ann. § 62-13-404.

Respondent denied any wrongdoing and provided a detailed timeline of events. Respondent alleged that the Complainant withdrew their loan application, not that it was denied, and as a result per the terms of the purchase and sale contract the earnest money would go to the seller. Respondent stated that they attempted to communicate with Complainant repeatedly and advised them of the potential consequences of defaulting on the agreement. Respondent also stated that the sellers were willing to extend the closing to allow more time to obtain financing and work with the bank, and the buyers declined that offer, telling their agent that they were "not willing to entertain any more extensions" and would not be providing the requested documentation since they were certain it had already been provided. Respondent stated that Complainant refused to listen to Respondent regarding the contractual terms of the agreement and is now blaming Respondent for the consequences of their actions.

Based on the information provided, there is insufficient evidence of a violation of the Rules or *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

19. 2023062551
Opened: 1/2/2024
First Licensed: 5/13/2022
Expires: 5/12/2024
Type of License: Real Estate Firm
History: None

Complaint is related to **REC-2023062571.**

Complainant is a lessee of a home that is managed by Respondent firm. Complainant alleges that after signing the lease Complainant discovered mold in the home; and that Respondent did not provide disclosures of repairs done prior to occupancy. Complainant also alleged the lease "failed to disclose mandatory TN State disclosures related to the material condition of the property". Complainant has requested termination of the lease and return of their security deposit and advance rent paid.

Counsel reviewed a copy of the signed lease provided by both the Complainant and the Respondent. The document includes many of the disclosures Complainant alleged Respondent did not provide along with a "Waiver of Pre-Possession Inspection" signed by the Complainant. Other disclosures that Complainant mentioned are required in a sale, but not in a lease, and were not included in Complainant's lease.

Respondent's attorney responded and denied any wrong-doing, and in addition to providing a copy of the lease provided copies of communications between Complainant and Respondent regarding leasing the home without an inspection and discussions regarding the deposit being non-refundable. Respondent also denied having any knowledge regarding mold in the home and stated that once Complainant made Respondent aware of the issue repairs to the affected drywall area in the basement were completed within 24 hours. Based on the information provided, Counsel recommends the matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

20. 2023063381
Opened: 1/2/2024
First Licensed: 12/8/2022
Expires: 12/7/2024
Type of License: Real Estate Firm
History: None

Complainant was a lessee of an apartment managed by Respondent. Complainant alleges that after moving into the property they learned that the property was not air conditioned and did not have proper heating, leading to Complainant having to purchase a portable air conditioner last summer and then request multiple space heaters this winter. Complainant alleges Respondent is mismanaging the property and causing undue hardship on tenants.

Respondent denied any wrongdoing and stated they have worked diligently to address Complainant's issues, and that Complainant is now satisfied with the apartment. Complainant did request that their complaint be withdrawn. Based on the information provided, there does not appear to be a violation of the Commission Rules or the *Broker Act.*

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

21. 2023060341
Opened: 1/8/2024
First Licensed: 12/14/2004
Expires: 5/11/2025
Type of License: Affiliate Broker
History: None

Complainant was a seller; Respondent was the listing agent. Complainant alleged that Respondent worked in concert with the appraiser to appraise the home "where it needs to be to sell at the price you wanted." The sale of the home was not completed, and Complainant alleges they found out the day before closing that the buyers were not prepared to close. Complainant alleges appraisal fraud and unethical conduct.

Respondent denied any misconduct and alleged that Complainant was unhappy with the length of time it took to sell the home along with additional conditions and stipulations. Regarding the appraisal, Respondent denied "working with" the appraiser and only told Complainant that they "thought everything would be okay" once the report came back and would keep Complainant informed. Respondent provided copies of the listing agreement, the purchase agreement, counteroffers, and the mutual release executed by the parties. Based on the documentation provided, there is insufficient evidence of a violation of Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

22. 2023060391
Opened: 1/8/2024
First Licensed: 4/29/1975
Expires: 9/13/2024
Type of License: Principal Broker
History: None

Complaint is related to **REC-2023060361.**

Complainant signed a one-year contract with Respondent in August 2022 to manage five properties, with another Respondent (REC-2023060361) named as the primary manager/contact for Complainant and tenants. Complainant alleges that Respondents continued to collect rent from tenants and deducted their management fees from those funds even after they were terminated by Complainant.

Respondent denies improperly collecting fees and provided copies of bills and invoices detailing their management history with Complainant. A review of the documents confirms that this matter is primarily a contractual dispute between the parties and is not within the jurisdiction of the Commission.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

23. 2023061161
Opened: 1/8/2024
First Licensed: 1/23/2013
Expires: 1/22/2025
Type of License: Principal Broker
History: None

Complainant was an attempted purchaser of property listed by Respondent. Complainant alleged that Respondent conspired with Complainant's own agent to drive up the amount of the offer made by Complainant and generally acted in bad faith and "did not provide all the material facts" regarding the transaction.

Respondent did not respond to the complaint but did sign the certified mail receipt for delivery of the notice of complaint.

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

Commission Decision: The Commission accepted counsel's recommendation.

24. 2023062571
Opened: 1/8/2024
First Licensed: 1/11/2019
Expires: 11/13/2025
Type of License: Principal Broker
History: None

Complaint is related to **REC-2023062551**.

Complainant is a lessee of a home that is managed by Respondent. Complainant alleges that after signing the lease Complainant discovered mold in the home; and that Respondent did not provide disclosures of repairs done prior to occupancy. Complainant also alleged the lease "failed to disclose mandatory TN State disclosures related to the material condition of the property". Complainant has requested termination of the lease and return of their security deposit and advance rent paid.

Counsel reviewed a copy of the signed lease provided by both the Complainant and the Respondent that included many of the disclosures Complainant alleged Respondent did not provide along with a "Waiver of Pre-Possession Inspection" signed by the Complainant.

Respondent's attorney responded and denied any wrong-doing, and in addition to providing a copy of the lease provided copies of communications between Complainant and Respondent regarding leasing the home without an inspection and discussions regarding the deposit being non-refundable. Respondent also denied having any knowledge regarding mold in the home and stated that once Complainant made Respondent aware of the issue repairs to the affected drywall area in the basement were completed within 24 hours. Based on the information provided, Counsel recommends the matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

25. 2023062831
Opened: 1/8/2024
First Licensed: 8/21/2019
Expires: 8/20/2025

Type of License: Affiliate Broker
History: None

Complainant and their sibling were buyers, Respondent was the listing agent for the property Complainant was attempting to purchase. Complainant did not clarify whether they had their own agent. Complainant alleges that they entered into a purchase agreement that was contingent on Complainant obtaining financing, and that when they were unable to obtain financing Respondent threatened to sue the Complainant instead of releasing the earnest money as agreed in the purchase agreement. Complainant alleges harassment and unethical behavior. Complainant did not provide a copy of the Purchase and Sale agreement.

Respondent stated that Complainant was represented by their own agent and that a contract offer was submitted on October 14, 2023, and was accompanied by a pre-approval letter. The contract was not contingent on the sale of any other property owned by Complainant but was contingent on Complainant obtaining financing. Complainant was then denied financing and Respondent demanded supporting documentation regarding the loan denial. Respondent was advised by their title attorney that there were reasons to believe that the denial of financing was the result of the actions and directions of the Complainant and not genuine financing issues. Respondent provided documentation of communications between Respondent and their attorney and the Complainant's agent; copies of the purchase and sale agreement; addendums that were agreed to in order to extend closing in order to assist Complainant with obtaining financing; the notification of demand for documentation regarding the loan denial; and the seller to buyer notification of refusal to release the earnest money. Respondent has advised Complainant that they will be moving forward with an interpleader action if necessary.

Based on the information provided, there is no apparent violation of the Commission Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

TIMESHARES:

26. 2023057321
Opened: 12/11/2023
First Licensed: 9/29/2009
Expires: 9/28/2025
Type of License: Real Estate Firm
History: None

Complainant purchased a timeshare in 2019 and alleges that Respondent lied to Complainant to convince them to make the purchase and that Complainant has been unable to stay at one of Respondent's properties since they purchased the timeshare. Complainant has apparently tried repeatedly to cancel their contract and has requested a full refund, but Respondent has refused. Complainant now requests the Commission assist them in obtaining a refund.

Respondent denied misleading Complainant and stated that Complainant has in fact used their timeshare options on at least one occasion and updated/transferred their "points" to a different "rewards program". Regarding Complainant's request to cancel their contract and obtain a refund, Respondent stated that Complainant's "rescission period has long expired, and (since they have) outstanding financial obligations owed to the Company, (they are) not eligible, or otherwise entitled to, contract cancelation." Respondent again declined to cancel Complainant's contract or refund any monies paid to Respondent.

Based on the information provided there is no apparent violation of the Commission's Rules or the *Broker Act*.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

Aerial Carter
New Complaints:

27. 2023054161
Opened: 11/14/2023
First Licensed: 5/8/2017
Expires: 5/7/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. The complaint alleges that the Respondent was given a check for two thousand dollars ($2,000) to be used for escrow money. After two weeks, the Complainant stated that the Seller did not have authority to sell the property. The Complainant stated they have not received the earnest money. The complaint did not provide documentation of the earnest money check.

Respondent stated that the Complainant was not given permission to move their property on the land and make repairs while waiting approval for the mortgage. The Respondent also denied that the Seller didn't have the authority to sell the property. The Seller was a co-owner, and the other owner was their brother who agreed to the sale. The earnest money was returned to the Complainant after they were denied for a mortgage. The Respondent attached several documents including a release of earnest money and screenshots.

The complaint was very disorganized, so Counsel reached out to both parties to try to get additional information. However, neither party provided additional information. Based off the information provided, the only issue the Commission would have authority over would be the remitting of the earnest money. It appears that the money was released to the Complainant.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

28. 2023056911
Opened: 12/11/2023
First Licensed: 5/31/2002
Expires: 2/21/2024
Type of License: Real Estate Broker
History: 2021 Agreed Citation for advertising violation

Complainant is a Tennessee resident. Respondent is a Real Estate Broker. Complainant alleges that is advertising via social media posts without complying with advertising rules. They stated there were multiple listings that are titled to the brokerage, but the ads do not list the firm's information. The complaint included screenshots of the listings.

Respondent did not submit a response.

Counsel reviewed the attachments, and it appears that most of the screenshots had been cropped so it could not be determined what information was missing. Some of the screenshots have information and it includes a listing agent and MLS information. Counsel also reviewed the Respondent's social media page but was unable to find the exact properties listed in the complaint. The social media page has the firm's information listed conspicuously on each listing viewed.

Based on the information provided, there is not enough information to prove an advertising violation occurred. However, the Respondent did not provide a response and is in violation of T.C.A § 62-13-313.

Based upon all these facts, Counsel recommends this Respondent be assessed a civil penalty of Five Hundred Dollars for failure to respond within ten (10) days.

Recommendation: Assess a civil penalty of Five Hundred Dollars ($500.00) for failure to respond within ten (10) days in violation of T.C.A § 62-13-313.

Commission Decision: The Commission voted to issue a Consent Order with a civil penalty of One Thousand Dollars ($1,000.00) for failure to respond within ten (10) days in violation of T.C.A. § 62-13-313.

29. 2023058191
Opened: 12/11/2023
First Licensed: 12/14/2012
Expires: 12/13/2024
Type of License: Affiliate Broker
History: 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; 2022 Consent Order for multiple complaints (three) related to escrow account violations

Complainant is anonymous. Respondent is an Affiliate Broker. Complainant alleges Respondent has misrepresents their credentials by selling coaching programs to help new agents, stating they have 25 years of experience, and stating they are a Broker when their status is an Affiliate Broker. The complaint had a post from social media.

Respondent denied the misrepresentations. They stated they are qualified to provide coaching to licensees. They also provided screenshots showing licensing in two other states. One of the out of state licenses has an active Broker's license. The Respondent explained that their Tennessee license was downgraded to an affiliate because they did not maintain a zero balance in the escrow account.

Based on the information provided, the Respondent has a program that operates like mentorship for new licensees and not attempting to conduct an educational course. There is not enough information to support the allegation that the Respondent mis-represented their credentials because the complaint did not show where the social media post was posted.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

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

30. 2023059591
Opened: 12/11/2023
First Licensed: 7/7/2014
Expires: 6/9/2024
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident and Buyer in a real estate transaction. Respondent is a Principal Broker. Complainant alleges Respondent engaged in dishonest conduct when they failed to disclose that the land being sold had not been divided on the plat map. To correct the plat map, the closing was pushed back, and it cost the Complainant money. Additionally, the Complainant alleged that the Respondent harassed their partner, co-owner of the property. By sending multiple text messages.

Respondent stated that neither they nor the Seller was aware that the property and land was not divided on the plat map until a few days before closing. Once they became aware of the situation, they worked with the Seller to correct the issue and the closing was postponed for twelve days.

Both parties attached screenshots of various text messages with the Buyer's agent. Counsel reviewed the text messages, and it appears that the Complainant was informed of the issues with the plat map and was given updates through their agent. The complaint did not have any text messages from the Respondent to them or their partner.

Based on the information provided, there is no indication that the Respondent was aware that the plat map was not divided properly. It is unlikely that the Respondent would have been aware there was an issue and the only party who may have known would have been the Seller. Under Tennessee Code Annotated, "there shall be no imputation of knowledge or information among or between clients, the managing broker and any designated agent or agents in a designated agency situation." T.C.A. § 62-13-406(c).

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

31. 2023060011
Opened: 12/11/2023
First Licensed: 8/4/2020
Expires: 8/3/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges Respondent failed to identify themselves as an agent as well as listing the brokerage and phone number on a social media post, as required by rules. The Complainant attached a screenshot of a post of the listing.

Respondent stated they recently started posting listing on social media and forgot to add the brokerage information and identify themselves as an agent.

Counsel reviewed the screenshots submitted. Based on the information provided and the Respondent's admission, the Respondent failed to comply with the advertising rules and is in violation of Tenn. Comp. R. & Regs. 1260-02-.12.

Based upon all these facts, Counsel recommends Respondent be assessed a civil penalty of Two Hundred and Fifty Dollars ($250.00).

Recommendation: Respondent assessed a civil penalty of Two Hundred and Fifty Dollars ($250.00) for violation of Tenn. Comp. R. & Regs. 1260-02-.12.

Commission Decision: The Commission accepted counsel's recommendation.

32. 2023057741
Opened: 12/19/2023

Unlicensed
History: None

Complainant is a Tennessee resident. Respondent is unlicensed. Complainant alleges Respondent is engaged in unlicensed activity when they told the Complainant that they were approved for a five-bedroom home for them. The Complainant then packed up their family to pick up keys that the Respondent didn't have. They stated that they are managing properties and illegally promising housing to people.

Respondent denied the allegations. They stated that they have never advertised themselves as a real estate professional. They work a nonprofit to serve individuals and families at risk of and/or experiencing homelessness.

Counsel reviewed the website the Respondent works for, and it appears the company works with local landlords to promote accessible housing via voucher and subsidy programs. They don't manage any rental properties.

Counsel finds Complainant's allegations related unlicensed activity to be unfounded. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

33. 2023058731
Opened: 12/19/2023
First Licensed: 7/22/2021
Expires: 7/21/2025
Type of License: Principal Broker
History: None

This complaint was administratively opened against the Respondent. The original complaint, REC-2023033881, was filed against an affiliate under the Respondent's supervision for an advertising violation. The case was presented in the December 6, 2023, legal report. The Commission voted to assess a civil penalty of Five Hundred Dollars ($500.00) to the affiliate.

Under Tennessee Comprehensive Rules & Regulations 1260-02-.12(3)(b), the principal broker supervises all advertising. Based upon all these facts, Counsel recommends this Respondent be assessed a civil penalty of Five Hundred Dollars ($500.00) for failure to supervise.

The Respondent did not provide a response to this complaint. Counsel recommends this Respondent be assessed a civil penalty of Two Hundred and Fifty Dollars ($250.00) for failure to respond.

Recommendation: Counsel recommends this Respondent be assessed a civil penalty of Five Hundred Dollars ($500.00) for failure to supervise and a civil penalty of Two Hundred and Fifty Dollars ($250.00) for failure to respond.

> **Commission Decision: The Commission voted to issue a civil penalty of One Thousand Dollars ($1,000.00) for failure to respond and a civil penalty of Five Hundred Dollars ($500.00) for failure to supervise, for a total of Fifteen Hundred Dollars ($1500.00).**

34. 2023056151
Opened: 1/2/2024
First Licensed: 9/14/2020
Expires: 9/13/2024
Type of License: Affiliate Broker
History: None

Complainant is a real estate professional. Respondent is an Affiliate Broker. The Complainant stated that they posted about a listing on social media. The Respondent made a comment on the post and made allegations. The Complaint alleges that the Respondent intentionally slandered them and their business. The complaint had screenshots of the post and the comments attached.

Respondent stated they did not slander the Complainant, they just asked questions about the property. They stated the only communication they had were the comments from the post.

Counsel reviewed the screenshots. The Complainant's post has the property. The Respondent asked if the drywall and insulation had been replaced and posted a picture of the roof the original damage for reference. The Complainant then responded, and they had a brief back and forth discussing the repairs. Based on the information provided, the Commission does not have authority over this matter. The complaint alleges harassment and slander. These matters would be better suited for civil court if the Complainant.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

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

35. 2023062151
Opened: 1/2/2024
First Licensed: 6/9/2016
Expires: 6/8/2024
Type of License: Affiliate Broker
History: None

Complainant is an out of state resident. Respondent is an Affiliate Broker. The Complainant alleges Respondent refused to present offers they submitted to the Seller and them made “mom jokes” at the Complainant’s expense.

Respondent stated that their client advised them that they did not want to consider “subject to offers” but did mention the offer to their client via phone calls. The Respondent also stated that they lost their composure after the Complainant made snide remarks and made the response “your moms not cool.”

Based on the information provided, there is no indication that the Respondent refused to present an offer to their client. For the comment made Commission does not have authority over this matter and if the Complainant believed there was an issue concerning professionalism, they should make a complaint with the local realtor’s association.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

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

36. 2023062821
Opened: 1/2/2024
First Licensed: 8/29/2023
Expires: 8/28/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident and a real estate professional. Respondent is an Affiliate Broker. Complainant stated that the prospective Buyers showed up an hour late to a showing.

Respondent stated that the complaint did not contain any violations they could respond to but denies wrongdoing.

Based on the limited information provided, the main complaint is that the Buyers were late to a showing and the Complainant’s clients had to come to the property multiple time. The conduct mentioned is not something the Commission has authority over.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

37. 2023059491
Opened: 1/2/2024
First Licensed: 8/19/2002

Expires: 3/9/2025
Type of License: Real Estate Firm
History: None

Complainant is a Tennessee resident. Respondent is a Real Estate Firm and manages residential properties. The Complainant alleges Respondent failed to fix problems in their apartment such as mold and a broken AC unit.

Respondent stated that they have addressed all the Complainant's issues and provided a timeline of the events. The Commission does not have authority over this matter as it is one of the exceptions under T.C.A. § 62-13-104.

Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

38. 2023060221
Opened: 1/2/2024
First Licensed: 1/30/2020
Expires: 1/29/2026
Type of License: Real Estate Firm
History: None

Complaint REC-2023060221 (#38) and complaint REC-2023061301 (#46) are related and contain identical allegations. Complainant is an out of state resident. Respondent is an apartment complex and manages residential properties from out of state. Complainant alleges Respondent increased the rent after a management change.

Respondent's attorney submitted a response on their behalf. The Attorney explained the reason for price increases.

Counsel reviewed the Respondent's website to determine if there was unlicensed activity. However, Counsel found the Respondent's firm has multiple branches and is currently licensed in Tennessee as a Real Estate Firm.

This appears to be a contract dispute over rent increases. The Commission does not have authority over this matter. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

39. 2023063571
Opened: 1/8/2024
First Licensed: 4/6/2018
Expires: 4/5/2024
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges the Respondent retaliated with false criminal charges after a potential buyer didn't move forward with a purchase. The complaint did not contain any additional information regarding the retaliation.

Respondent attached the police report. After reviewing the narrative, Counsel recognized that the allegations were the same case REC-2023042891 and REC-2023043561, which were presented in the legal report on November 8, 2023, and dismissed. The allegation was that Complainant alleges that they noticed an out of state vehicle at the base of their driveway who was flying a drone over (Individual). The Complainant told the Individual that they were trespassing and told them that Respondent gave them the access code. Complainant believes that Respondent engaged in unethical behavior by giving the Individual the access code.

Respondent stated their firm did list the property. However, the agent did not provide the access code, it was the president of the Homeowner's Association (HOA). The Individual was the buyer of the vacant lot and threatened to shoot down the drone if they didn't leave. Respondent attached a screenshot of the conversation showing that the code was obtained from the HOA president.

Based on the information provided, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

40. 2023063821
Opened: 1/8/2024
First Licensed: 2/19/2002
Expires: 12/16/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges Respondent discouraged them from submitting an offer on a home listed by the Respondent.

Respondent stated that they hosted an open house on November 12, 2023. The Complainant attended and they sent a few emails inquiring about other offers. They told the Complainant that the Seller was told there were a few offers received over asking price and if they wanted to make an offer, they should speak to their agent. The Sellers accepted an offer and closed on December 15, 2023. On December 16, 2023, they received a message from the Complainant letting them know that they believed the sale was manipulated.

Counsel finds Complainant's allegations related to manipulating the sale and discouraging them from making an offer to be unfounded. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

41. 2023063861
Opened: 1/8/2024
First Licensed: 7/24/2023
Expires: 7/23/2025
Type of License: Affiliate Broker
History: None

Complainant is an out of state resident. Respondent is an Affiliate Broker. Complainant alleges they drove a long distance to view a house that the Respondent knew was pending but failed to tell them about. The Respondent told them that they didn't believe the house would sell so that's why they continued to show it but later sent them a house that they thought the Complainant would like.

Respondent stated that they were aware that the Complainant was travelling from out of town and suggested seeing multiple homes. They viewed seven or eight homes. The house mentioned in the complaint went into pending status while the Complainant was already coming to the property. The Respondent contacted them and advised that the contract wasn't "completely solid" so they should still view it. They did not believe that the sole purpose of the trip was to view one house and others were viewed but the Complainant didn't like them.

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

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

42. 2023063881
Opened: 1/8/2024
First Licensed: 5/29/2018
Expires: 4/10/2026
Type of License: Principal Broker
History: None

Complaint REC-2023062591 (#49) and REC-2023063881 (#42) are related and portions of the complaint are based off the same interaction.

Complainant is a Tennessee resident. Respondent is a Principal Broker. The Complainant alleges Respondent's Affiliate ("Affiliate") violated the duty to act in their best interest. The Complainant states that the Affiliate refused to terminate their contract without any fee or contingencies.

Respondent stated the Affiliate signed contract for an Exclusive Right to Sell with the Complainant. The Affiliate was terminated and was told that the listing would stay with the Respondent's firm. The contract is valid until March 2024 but if they wanted to cancel, they would need to pay the cancelation fee.

Counsel reviewed the Exclusive Right to Sell document and all terms were stated in the carryover clause and the contract is valid until March 2024. Based on the information provided, this is a contract issue because the Complainant wants to terminate the contract without paying fees, and the Commission does not have authority over this matter.

Counsel finds Complainant's allegations related to the Respondent's violation of Tenn. Code. Ann. § 62-13-404 to be unfounded,

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

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

43. 2023063891
Opened: 1/8/2024
First Licensed: 11/19/2019
Expires: 11/18/2025
Type of License: Affiliate Broker
History: None

Complainant is a Tennessee resident. Respondent is an Affiliate Broker. Complainant alleges Respondent's client walked away from a real estate transaction although the home passed inspection.

Respondent stated the builder breached the contract and their client was requesting the earnest money to be returned. After reviewing the home inspection report and walking through the builders completed homes, the client did not want to move forward with the transaction.

After receiving the complaint and a response, the Complainant sent an email requesting that the mater be dropped as all parties agreed to mutually release the earnest money.

Based on the information provided, the Respondent was acting on behalf of their client and requesting that the transaction be terminated. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

44. 2023060311
Opened: 1/8/2024
First Licensed: 10/13/2020
Expires: 3/7/2025
Type of License: Real Estate Firm
History: None

Complainant is a Tennessee resident. Respondent is a Real Estate Firm and manages residential properties. The Complainant alleges Respondent failed to fix problems in their apartment such as no heat, a roast infestation, and non-drinkable water.

Respondent stated that they have addressed all the Complainant's issues and provided work orders for the repairs done by maintenance.

The Commission does not have authority over this matter as it is one of the exceptions under Tennessee Code Annotated § 62-13-104. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

45. 2023061241
Opened: 1/8/2024
First Licensed: 9/12/2016
Expires: 6/1/2025
Type of License: Real Estate Firm
History: None

Complainant is a Tennessee resident. Respondent is a Real Estate Firm and manages residential properties. Complainant alleges Respondent refused to return fees paid for a deposit, first moth rent, and a processing fee and they are requesting the money be returned to them.

Respondent stated the matter has been closed and the money was returned to them in October 2023, and it was released to the address of record. The only money not returned was the application fee as it was non-refundable as stated in documents signed by all parties. The Respondent attached a copy of the check sent and the refund request form.

Based on the information provided, the Commission does not have authority over to have money returned to them. This should be handled in civil court. Counsel finds that the money was remitted in a timely manner. Therefore, Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

46. 2023061301
Opened: 1/8/2024
First Licensed: 1/30/2020
Expires: 1/29/2026
Type of License: Real Estate Firm
History: None

Complaint REC-2023060221 (#38) and complaint REC-2023061301 (#46) are related and contain identical allegations. Complainant is an out of state resident. Respondent is an apartment complex and manages residential properties from out of state. Complainant alleges Respondent increased the rent after a management change.

Respondent's attorney submitted a response on their behalf. The Attorney explained the reason for price increases.

Counsel reviewed the Respondent's website to determine if there was unlicensed activity. However, Counsel found the Respondent's firm has multiple branches and is currently licensed in Tennessee as a Real Estate Firm.

This appears to be a contract dispute over rent increases. The Commission does not have authority over this matter. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

47. 2023063271
Opened: 1/8/2024
Unlicensed
History: None

Complainant is a Tennessee resident. Respondent is unlicensed. Complainant alleges Respondent refused to provide proceeds collected after their management contract was terminated. The Complainant attached a screenshot of a text conversation.

Respondent stated the Complainant is not entitled to the fees and they breach the contract. The Commission has no authority over contract disputes but there is a potential violation for unlicensed activity.

Counsel reviewed the Respondent's website and confirmed that they are advertising as a vacation rental service and property management. However, Counsel was unable to find a license as required under T.C.A. § 62-13-104(b)(2). Additionally, the Respondent used to have a license as an Affiliate Broker, but it has been expired since 1998 and it doesn't appear to be working for licensed real estate professional or is the owner of the properties managed.

Based upon all these facts, Counsel recommends this Respondent be assessed a civil penalty of One Thousand Dollars ($1,000.00) for unlicensed activity.

Recommendation: Assess the Respondent a civil penalty of One Thousand Dollars ($1,000.00) for unlicensed activity.

Commission Decision: The Commission accepted counsel's recommendation.

48. 2023058821
Opened: 1/16/2024
First Licensed: 4/1/2014
Expires: 3/17/2024
Type of License: Real Estate Broker
History: None

Complainant is a Tennessee resident. Respondent is a Real Broker. Complainant alleges Respondent intentionally delayed the closing and as a result they had to spend money for five additional nights. The original closing date was September 27th, but they didn't get to move in until October 1st. The Complainant was wondering if they had a valid claim for a breach of contract.

Respondent stated that the closing date was for September 27th but needed to be amended for the next day. The Complainant signed off on it. The Respondent stated that they believe the issue was with the title company and mobile notary because the notary scheduled when the documents were shipped, delivery and wiring of the funds. They feel as though they should not be held liable for actions they could not control.

Based on the information provided, the Commission does not have authority over contract disputes and cannot provide legal advice to the Complainant or assess the merits of claim for breach of contract. The Complainant is encouraged to consult an attorney.

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

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

49. 2023062591
Opened: 1/16/2024
First Licensed: 4/7/2021
Expires: 4/6/2025
Type of License: Affiliate Broker
History: None

Complaint REC-2023062591 (#49) and REC-2023063881 (#42) are related and portions of the complaint are based off the same interaction.

Complainant is a Principal Broker and employed the Respondent. Respondent is an Affiliate Broker. The Complainant alleges Respondent engaged in conduct that resulted in multiple violations such as (1) mishandling money, (2) misusing their credentials, (3) lapse in E&O coverage, (4) improper advertising and (5) benefiting from referrals.

Mishandling money

The Complainant alleges that there were two instances that the Respondent mishandled money. The first occurred Oct. 14, 2023, when the Respondent told them during a meeting that they had accepted a commission for $10,000 but they had no valid contract. The Complainant told them to return the money and cancel the contract because they couldn't have the check without accounting for it.

The Respondent stated that they were asking for guidance when they inquired about the check. They stated that the check was voided, and nothing was ever cashed. The client voided the check, and it was agreed that the earnest money would be paid at the time of closing.

The second occurrence was failing to turn in a $2,000 commission check. The Respondent denied the claim. The Complainant updated their complaint and admitted that they were incorrect on the facts and there was no mismanagement of money in this situation.

There is nothing to support the check being in the Respondent's possession in the first situation, but the Respondent admitted to having the check. It's concerning that there was a check written but since it was not cashed and the money was not deposited, it is Counsel's recommendation to dismiss this claim. For the second occurrence, the Complainant rescinded the claim and the Respondent submitted documentation that money was properly accounted for.

Misusing their credentials

The Complainant alleged that the Respondent had transferred a parking spot to their significant other and allowed them to look at MLS listings. The Commission has no authority over a parking spot and there was no supporting evidence that the MLS was accessed by unauthorized individuals.

Counsel recommends this be dismissed.

Lapse in E&O coverage

The Complainant alleged that the Respondent was illegally managing property for owners without having the proper agreements in place, broker approval and the proper E&O coverage for property management. The response was that the allegations were vague. There was no specific listing that were alleged to be managed by the Respondent. Additionally, if there was an issue with E&O insurance the Respondent and the Complainant, as their principal broker, would have received civil penalties.

Counsel recommends this be dismissed.

Improper advertising

The Complainant alleges that the Respondent had an old firm linked to their website address and social media. The Respondent stated that they were investigating why there would be any connection as they haven't had a relationship with the old firm in over two years. Counsel attempted to look at the website but it's no longer in service and Counsel was unable to find the social media post. The screenshot attached to the complaint did not have anything connecting the Respondent to the old firm. Counsel recommends this be dismissed.

<u>Benefiting from referrals</u>
The Complainant alleged that the Respondent was receiving referrals from unlicensed individuals and paying them a fee. The Respondent denied this allegation. Counsel finds there was no evidence to support this allegation and recommends this be dismissed.

Based upon all these facts, it appears these matters stem from personal disagreements. Counsel recommends this matter be dismissed.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

50. 2023062771
Opened: 1/16/2024
First Licensed: 6/15/2012
Expires: 12/15/2025
Type of License: Principal Broker
History: None

Complainant is a Tennessee resident. Respondent is a Principal Broker. Complainant alleges Respondent is Listing homes and property with false information. The complaint refers to an allegation that occurred July 10, 2020, but does not include any information on the list or the false information.

Respondent stated they cannot provide an appropriate response because they don't know what they're being accused of.

Counsel finds Complainant's allegations related to misleading advertisement to be unfounded. Additionally, if the incident occurred in 2020, the statute of limitations for filing a complaint has passed.

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

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

<u>CASES TO BE REPRESENTED</u>

51. 2023046991
Opened: 10/23/2023
First Licensed: 11/7/2016
Expires: 5/19/2025
Type of License: Principal Broker
History: None

Complainant is a prospective buyer in a real estate transaction. Respondent is a Principal Broker and acted as the seller's agent personally benefitted by purchasing the property after the Complainant denied their request for an extension on the closing. The Complainant stated that they asked for an extension around about seven (7) days before the original closing date. The Complainant did not have the funding and asked for another extension because they were waiting on funding from a federal program. The second extension was requested on the date of closing and the sellers requested that the Complainant forfeit their earnest money deposit. After the second request was denied, the Respondent contacted the Complainant and informed them that the seller could not afford a mortgage payment and rent for their new place. Additionally, the seller found out that the was a lien on the property, so the Respondent was going to purchase the property.

Respondent stated that this entire transaction is a big misunderstanding and at no point did they intend to "buy the house from under the Complainant," it was just a solution they came to try to help their client. The Respondent said that the seller contacted them to sell their property, but the property needed a lot of work, so the Respondent offered to have the seller use one of their rental properties while their property was renovated. The Respondent stated that they did not charge the seller anything. When the seller received an extension request four (4) days before closing and the seller told Respondent that they could not afford both the mortgage payment and rent for the new property. The next day, the Respondent was informed by the title company that the was a lien on the property that was previously unknown to the seller. The Respondent then stated the sellers could do a quit claim deed and sign the property to them. The sellers agreed and refused to grant the second extension because the Respondent provided a way out.

The Respondent stated that they did not fully disclose their client's situation to the Complainant or their agent because it was privileged information. The Respondent attached screenshots between themselves and the seller and an email from the Complainant asking to withdraw the complaint.

Counsel could not review the screenshots due to the low quality. The Respondent was asked to resubmit the screenshots due to the blurriness, but the link used required a log in that Counsel did not have access to. The email that the Complainant sent to the Respondent was included and stated that they wanted to withdraw the complaint because they had the additional information. However, in a separate document sent, the Complainant wanted to withdraw the complaint because the Respondent found out about the complaint, and it was affecting their contract and closing. The Complainant was informed that they could not withdraw the complaint.

Based on the information provided, there appears to be a discrepancy between the parties regarding the timeline of events. Neither party included documents related to the closing date. The

Respondent got the quit claim deed and then became a party to the real estate transaction as the seller.

The Respondent did not disclose that they were having the sellers sign a quit claim deed. Counsel believes there are potential violations related to engaging in self-dealing. Specifically, T.C.A § 62-13-403 for violating the duty to all parties to not engage in self-dealing; T.C.A § 62-13-312 for failing to disclose their true intention to purchase property listed with their firm; Tenn. Comp. R. & Regs. 1260-02.11 for failing to make a full disclosure regarding the property. Counsel recommends that this matter to be discussed by the Commission to determine the proper civil penalty.

Recommendation: Discuss.

Commission Decision: The Commission voted to defer this matter to the February meeting for counsel to gather additional information regarding the contract and the type of deed.

New Information:

Counsel contacted the Respondent to get additional information. The Respondent stated that they have a quit claim deed for the property and was not the seller or owner. The quit claim deed was an option that was on the table that the told the seller about because they were worried about the many closing delays on the home.

The Respondent told them several times that they should be patient and let the deal close, but the Seller continued to stress that they did not have the money to continue to make the mortgage payments if the deal was delayed. The Buyer was able to get the clear to close by the time the seller needed to sell the home and the home closed.

They stated they only operated as the listing agent for the seller. The original buyer did end up buying this property from the Seller.

New Recommendation: Dismiss.

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

TIMESHARES:

52. 2023058711
Opened: 12/11/2023
First Licensed: 10/28/2010
Expires: 10/27/2024
Type of License: Real Estate Firm

History: None

Complainant is a Tennessee resident. The Complainant entered a contract with Respondent on September 25, 2018. Complainant alleges that the timeshare sales pitch was dishonest and lacked transparency. They have been disappointed by the lack of communication by the Respondent. They reached out so we can "bridge the gap in communication" and explain the paperwork they signed.

Respondent attorney responded on the Respondent's behalf ("Representative"). Representative stated that Complainant was provided an overview of the timeshare and were aware of the stipulations. They maintain that they have a legally binding agreement, and the Complainant is still responsible for fees owed.

Based on the information provided, Complainant is outside of the recission period and has exceeded the statute of limitations.

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

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

Anna D. Matlock:

CASES TO BE REPRESENTED

53. 2022020201
Opened: 05/16/2022
First Licensed: 07/12/2012
Expires: 11/15/2024
Type of License: Principal Broker
History: 2021 E&O Failure to supervise affiliate broker

On or about January 29, 2021, the Commission suspended Respondent's affiliate broker for failure to maintain continuous errors and omissions ("E&O") insurance coverage. On or about April 25, 2022, the Commission received a request to reinstate a license from Respondent's affiliate broker. Following this action, the Commission administratively opened a complaint against Respondent for failure to adequately exercise supervision over the activities of the affiliated broker. Specifically, Respondent failed to ensure that the affiliate licensee maintained continuous E&O insurance coverage.

In response, on October 22, 2022, as required by Tenn. Comp. R. & Regs. 1260-01-.16(2)(c)(2), if a principal broker releases an affiliated licensee more than one hundred twenty (120) days after suspension, the consent order shall contain a civil penalty of one thousand dollars. Therefore, Counsel sent Respondent a consent order authorizing a One Thousand Dollar ($1,000.00) civil penalty.

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

<u>New Information</u>: Counsel set this matter for a formal hearing. Following a pre-hearing conference with the administrative law judge ("ALJ 1"), the Parties agreed to attempt and settle the case via mediation with a second administrative law judge ("ALJ 2"). If matters were to fail, the case would return to ALJ 1 for a full contested case proceeding. On January 19, 2024, the Parties successfully mediated the case with ALJ 2. Considering the facts and circumstances, ALJ 2 recommended an assessment of a civil penalty of Two Hundred Dollars ($200.00), the Parties to split the mediation and contested filing fees of Two Hundred Dollars ($200.00) each, that Respondent be found responsible for one (1) incident of failing to supervise an affiliate broker, and Respondent will pay the filing fee to the Department within thirty (30) days of the entry of a signed order by ALJ 1. Therefore, Counsel recommends the Commission approve the agreed upon settlement between the Parties.

<u>New Recommendation</u>: Approve the agreed upon settlement.

<u>New Commission Decision</u>: The Commission voted to accept counsel's recommendation.

The meeting adjourned at: 11:57 AM