

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Formal Complaint No. C-22-022

MATTHEW SHANNON HURLEY,
Licensed Real Estate Broker
License No. WV0027819
Respondent.

RECEIVED

FEB 11 2021

**WV REAL ESTATE
COMMISSION**

CONSENT DECREE

Respondent Matthew Shannon Hurley (“Respondent Hurley”) and the West Virginia Real Estate Commission (“Commission”) enter into the following Consent Decree for the purpose of resolving the above-styled complaint. As reflected in this Consent Decree, the parties have reached an agreement in which the Respondent agrees and stipulates to the Findings of Fact, Conclusions of Law, and disposition of this matter. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. Respondent Hurley is a licensed real estate broker in the State of West Virginia, holding license number WV-0027819.
2. At all times relevant, Respondent Hurley served as the responsible broker for Legacy Realty Inc. dba Legacy Realty Sales, Inc., located in Greencastle, Pennsylvania.
3. Real estate licenses must be renewed annually, on or before June 30.
4. Respondent Hurley failed to properly renew his license on active status on or before June 30, 2020 for the 2021 licensure year. Thus, his license expired on July 1, 2020, and, remained

on expired status until June 16, 2021, at which time, his license was cancelled and could no longer be renewed.

5. The Commission requested that respondent submit information for any listings and sales that Respondent Hurley handled during the period that his license was expired. Respondent Hurley identified four properties that he handled as a real estate broker during the period that his license was either on expired or cancelled status.

6. In addition to operating under the trade name Legacy Real Estate Sales Inc. Respondent Hurley also operated under the trade name Hurley Auctions, which was not registered with the Commission as required under Legislative Rule, West Virginia Code R. § 174-1-12.

7. On November 2, 2021, the Commission initiated the present complaint against respondents.

8. Respondent Hurley submitted a written response to the Commission on December 6, 2021.

9. At its regularly-scheduled meeting on December 15, 2021, the Commission determined there was probable cause to conclude that Respondent Hurley violated the *West Virginia Real Estate License Act*, but authorized the proposal of a consent decree to informally resolve the matter.

CONCLUSIONS OF LAW

1. Pursuant to the *West Virginia Real Estate License Act*, West Virginia Code § 30-40-1, et seq., the Commission is charged with the regulation of the practice of real estate brokerage in this State, and, thus, has jurisdiction over this Formal Complaint.

2. In relevant part, West Virginia Code § 30-40-7(1) authorizes the Commission to impose sanctions for violations of the *West Virginia Real Estate License Act*, including, but not limited to, an administrative fine not to exceed \$1,000 per day per violation; probation; revocation; suspension; restitution; additional education; denial of future license; downgrade of license; reprimand; and/or the return of compensation collected from an injured consumer.

3. West Virginia Code § 30-40-19(a)(19) authorizes the Commission to sanction a licensee if the licensee “[v]iolates any of the provisions of the *West Virginia Real Estate License Act*], any rule or order or final decision issued by the commission.” West Virginia Code § 30-40-17(a)(5) mandates that a real estate broker “[m]aintain in his or her custody and control the license of each associate broker and salesperson employed by him or her[.]”

4. West Virginia Code § 30-40-19(a)(23) authorizes the Commission to sanction a licensee if the licensee “[c]ontinues in the capacity of or accepts the services of any broker, associate broker, or salesperson who is not properly licensed[.]”

5. Respondent Hurley violated West Virginia Code § 30-40-19(a)(23) by continuing in the capacity of a broker while not properly licensed to do so

6. Legislative Rule § 174-1-12.1 states that “[a] broker shall not use any trade name not set forth on the license certificate.”

7. Respondent Hurley violated Legislative Rule § 174-1-12.1 by using and advertising under the trade name Hurley Auctions, even though this name did not appear on any license certificate issued by the Commission.

CONSENT

By signing below, the Respondent agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage the Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he may pursue this matter through appropriate administrative proceedings and are aware of their legal rights regarding this matter, but intelligently and voluntarily waive such rights.

2. Respondent acknowledges the Findings of Fact set forth above, admits that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consents to the entry of the following Order:

ORDER

On the basis of the foregoing, the Commission hereby ORDERS as follows:

1. Respondent Hurley is hereby reprimanded and shall pay a fine in the amount \$1,000.00, payable to the State of West Virginia.

2. Respondent Hurley shall pay his fine within thirty (30) days of the entry of this Consent Decree by the Commission by check or money order made payable to the State of West Virginia and sent directly to the Commission's Office.

3. Any deviation from the requirements of this Consent Decree, without the prior written consent of the Commission, shall constitute a violation of an order of the Commission and may result in further disciplinary action, including, but not limited to, suspension of Respondents' licenses. The Commission shall immediately notify Respondent via certified mail of the alleged violation of the Consent Decree. In the event Respondent contest the alleged violation of the

Consent Decree, Respondent is entitled to a hearing to challenge the alleged violation. Such hearing shall be scheduled and conducted in accordance with the provisions of W. Va. Code §§ 30-1-8 and 30-40-1 *et seq.* and any procedural rules promulgated by the Commission.

CONSENT DECREE AGREED TO BY:



Matthew Shannon Hurley, Broker

Date 1/28/2022

ENTERED into the records of the Real Estate Commission this:

11th day of February, 2022.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

Jerry A. Forren, Executive Director