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W.VA. REAL ESTATE  
COMMISSION

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

*Complainant,*

v.

Formal Complaint No. C-17-017

CHRISTOPHER BRIAN SHULTZ

Licensed Salesperson

License No. WV0007944

*Respondent.*

**CONSENT DECREE**

The Respondent, Christopher Brian Shultz (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Cheryl L. Dawson, its Chairman, enter into the following Consent Decree for the purpose of resolving the complaint filed against Respondent by the Commission. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in this Consent Decree concerning the proper disposition of these matters. The Commission, having approved such agreement, does hereby Find and Order as follows:

**FINDINGS OF FACT**

1. The Commission is a state agency created by West Virginia Code § 30-40-1, *et seq.*, and is empowered to regulate the practice of real estate brokerage in the State of West Virginia.

2. Respondent is a licensed real estate salesperson in the State of West Virginia, holding license number WV0007944, but Respondent did not apply for renewal for the 2017-2018 licensure year, and his license expired effective July 1, 2017.

3. On January 3, 2017, the Commission received Respondent's form and fee to renew his license on an active status for the 2016-2017 licensure year, which license was renewed.

4. Question No. 1 on the 2016-17 renewal form asked if the licensee had been a party to any criminal proceeding other than a misdemeanor traffic violation during the past 36 months, to which Respondent Shultz answered "No."

5. It later came to the Commission's attention that Respondent had been arrested for several counts of embezzlement, which criminal matter remains pending in the courts of Jefferson County, West Virginia.

6. To date, Respondent has provided no information about the criminal proceeding, and the documents attached to the Complaint were obtained as a result of the Commission's investigation of the matter.

7. At its regular meeting on April 19, 2017, the Commission initiated Complaint No. C-17-017 against Respondent, which was served on or about April 25, 2017.

8. The Commission, at its meeting on August 23, 2017, found probable cause to proceed against Respondent for violation of the West Virginia Real Estate License Act and related Rules.

9. Respondent filed an untimely response to the complaint stating that he had "marked no to convicted felony" and had as of the date of the response not been convicted but charged with embezzlement by a partner.

10. The renewal form does not ask about convictions, but whether the licensee had been a party to any criminal proceeding other than a misdemeanor traffic in the past 36 months, to which the correct answer was "Yes."

11. The parties have agreed to settle the Complaint informally through the entry of this Consent Decree.

12. The Commission has incurred expenses in the prosecution of this Complaint in excess of Seven Hundred Dollars (\$700.00), which expenses include the Commission's legal expenses and a portion of the time expended by the Commission's investigator, but does not include other expenses incurred by the Commission in the investigation and prosecution of this Complaint.

#### **CONCLUSIONS OF LAW**

1. West Virginia Code § 30-40-1 *et seq.*, vests the Commission with the authority and responsibility to regulate real estate brokers, associate brokers and salespersons in the State of West Virginia.

2. West Virginia Code § 30-40-19(a)(1) provides that the Commission shall have full power to refuse a license for reasonable cause or to revoke, suspend or impose any other sanction against a licensee if the licensee "(o)btains, renews or attempts to obtain or renew a license, for himself, herself or another, through the submission of any application of other writing that contains false, fraudulent or misleading information."

3. West Virginia Code § 30-40-19(a)(2) provides that the Commission shall have full power to refuse a license for reasonable cause or to revoke, suspend or impose any other sanction against a licensee if the licensee "(m)akes any substantial misrepresentations."

4. Respondent's incorrect response to question No. 1 on his renewal form violates West Virginia Code § 30-40-19(a)(1) and (2).

5. The Commission's related rule West Virginia Code R. § 174-1-20.2 sets forth the requirements for "Court Action" and provides:

20.2 Licensee to inform Commission of criminal action. -- When any licensee is a defendant in any criminal proceeding other than misdemeanor traffic violations, it is the duty of the licensee to supply the Commission with a copy of the petition, complaint, warrant, indictment, or information, and the answer filed, if any, and to advise the Commission of the disposition of the case and the nature and amount of any judgment, verdict, finding or sentence made, entered or imposed."

6. Respondent's failure to timely provide any documents related to his criminal charge violates West Virginia Code R. § 174-1-20.2.

7. The Commission may assess administrative costs, which shall be placed in the account of the Commission. Any fine shall be deposited in the state treasury's general revenue account. W. Va. Code § 30-1-8(a).

### **CONSENT**

By signing below, Respondent agrees to the following:

1. Respondent is aware of his right to be represented by 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 Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he may pursue this matter through appropriate administrative proceedings and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent understands the pending criminal matter may give rise to future action by the Commission and that further disciplinary action based on non-compliance with this consent decree or initiated as a result of the pending criminal matter are not precluded by this settlement, which is based solely on the misrepresentation in Respondent's application for renewal.

3. Respondent acknowledges the Findings of Fact set forth above, admits to the violations set forth above in the Conclusions of Law, and consents to the entry of the following Order:

### **ORDER**

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

1. Respondent is **REPRIMANDED**.
2. Respondent shall pay a fine in the amount of Five Hundred Dollars (\$500.00) for his violations of West Virginia Code §§ 30-40-19(a)(1) and (2).
3. Respondent shall pay a fine in the amount of Five Hundred Dollars (\$500.00) for his violation of West Virginia Code R. § 174-1-20.2.
4. Respondent shall notify the Commission of any and all court orders entered in connection with the pending criminal matter within thirty (30) days of the entry of same.
5. Respondent shall pay the costs associated with this Complaint in the amount of Seven Hundred Dollars (\$700.00).
6. The total payment of One Thousand Seven Hundred Dollars (\$1,700.00) shall be paid by certified check or money order made payable to the State of West Virginia and sent directly to the Commission's Office within thirty (30) days of the entry of this Consent Decree by the Commission.

7. Respondent is ineligible for renewal of his license until he has made the payments agreed to in this Consent Decree.

8. Any deviation from the requirements of this Consent Decree by Respondent, without the prior written consent of the Commission, shall constitute a violation by Respondent of an Order of the Commission, which may result in further discipline against Respondent based upon Respondent's violation of this Order of the Commission.

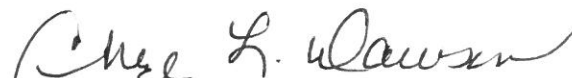
**CONSENT DECREE AGREED TO BY:**

  
\_\_\_\_\_  
CHRISTOPHER BRIAN SHULTZ

10-25-17  
\_\_\_\_\_  
DATE

ENTERED into the records of the Real Estate Commission this 25 day of October, 2017.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:   
\_\_\_\_\_  
CHERYL L. DAWSON,  
COMMISSION CHAIRMAN