

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

**WEST VIRGINIA REAL ESTATE COMMISSION,**

*Complainant,*

**v.**

**Formal Complaint No. C-19-004**

**RITA JO HAVERTY,  
Licensed Broker  
License No. WV0005985**

**and**

**JOSEPH MATTERSON HAVERTY,  
Licensed Salesperson  
License No. WV0023888**

*Respondents.*

**CONSENT DECREE**

Respondents Rita Jo Haverty ("Respondent Rita Jo Haverty") and Joseph Matterson Haverty ("Respondent Matt Haverty"), 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 Respondents agree and stipulate 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 Rita Jo Haverty is a licensed real estate broker in the State of West Virginia, holding license number WV0005985. Respondent Rita Jo Haverty is the broker of record for Mountain Top Realty and Rentals, LLC, in Tucker County, West Virginia.

2. Respondent Matt Haverty is a licensed real estate salesperson in the State of West Virginia, holding license number WV0023888. Respondent Matt Haverty is licensed with Mountain Top Realty and Rentals, LLC, and practices under the supervision of Respondent Rita Jo Haverty.

3. Mountain Top Realty and Rentals, LLC provides property management services to numerous owners of vacation rental properties in the Tucker County area.

4. During the course of the Commission's investigation of a Formal Complaint filed against Respondents by a former client, which was ultimately dismissed, the Commission learned that Respondents were managing a number of their clients' rental properties without a valid property management agreement.

5. Additionally, Respondent Matt Haverty acknowledged during the prior investigation that, in October of 2017, he unilaterally increased by one percent Mountain Top Realty and Rental's commission from its property management clients without notice to or consent of these clients. Respondent Matt Haverty indicated that he provided a credit and reverted to the prior commission for clients who noticed the unilateral increase and objected.

6. On September 19, 2018, the Commission initiated the above-styled Formal Complaint against Respondents based upon the information discovered in the prior investigation.

7. By letter dated October 15, 2018, Respondents submitted a joint written response to the above-styled Commission-initiated Formal Complaint.

8. At its October 24, 2018, meeting, the Commission considered the information gleaned from its investigation, the Respondents' response, and the applicable law, and determined that there was probable cause to proceed with this Formal Complaint.

### 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(l) 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)(10) authorizes the Commission to sanction a licensee if the licensee “[a]dvertises or displays a ‘for sale’, ‘for rent’ or other such sign on any property without an agency relationship being established or without the owner’s knowledge and written consent.”

4. West Virginia Code § 30-40-19(a)(11) authorizes the Commission to sanction a licensee if the licensee “[a]dvertises any property on terms other than those authorized by the owner.”

5. West Virginia Code § 30-40-19(a)(37) authorizes the Commission to sanction a licensee if the licensee “[e]ngages in any act or conduct which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing.”

6. By providing property management and rental services to numerous property-owner clients with no valid property management agreement in effect, Respondent Matt Haverty violated West Virginia Code §§ 30-40-19(a)(10), (11), and (37).

7. West Virginia Code § 30-40-19(a)(31) authorizes the Commission to sanction a licensee if the licensee “[b]reaches a fiduciary duty owed by a licensee to his or her principal in a real estate transaction.”

8. By unilaterally increasing Mountain Top Realty and Rental’s commission with no notice to or consent of its property management clients, Respondent Matt Haverty violated West Virginia Code § 30-40-19(a)(31).

9. West Virginia Code § 30-40-19(a)(30) authorizes the Commission to sanction a licensed broker if the broker “fails to adequately supervise all associate brokers and salespersons employed by him or her.”

10. By allowing Respondent Matt Haverty to engage in the above-mentioned violations of the *West Virginia Real Estate License Act*, Respondent Rita Jo Haverty failed to adequately supervise Respondent Matt Haverty, in violation of West Virginia Code § 30-40-19(a)(30).

#### **CONSENT**

By signing below, Respondents agree to the following:

1. Respondents have 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 Respondents to make this settlement other than as set forth herein. Respondents acknowledge that they 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. Respondents stipulate to the Findings of Fact set forth above, admit to the violations set forth in the Conclusions of Law above, and consent to the entry of the following Order:

### **ORDER**

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

1. Respondent Rita Jo Haverty is reprimanded and shall pay a fine in the amount of \$500 payable to the State of West Virginia. The fine 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.

2. Respondent Matt Haverty is reprimanded and shall pay a fine in the amount of \$500 payable to the State of West Virginia. The fine 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.

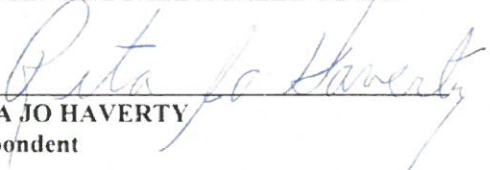
3. Respondent Rita Jo Haverty shall also reimburse the Commission its costs associated with this Complaint, and its attorney fees, in the amount of \$507 by certified check or money order made payable to the State of West Virginia and sent directly to the Commission's Office within thirty (30) days of the entry of this Consent Decree by the Commission.

6. 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 the immediate suspension of Respondents' respective licenses until such time as Respondents achieve full compliance. The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree and the suspension of their respective licenses. In the event either Respondent contests his or her alleged violation of the Consent Decree,

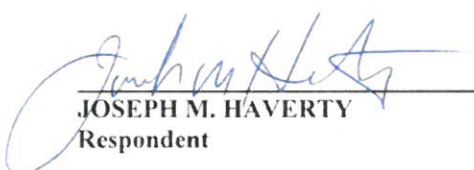
the subject Respondent is entitled to a hearing to challenge the alleged violation. Such hearing shall be scheduled and conducted in accordance with the provisions of W. Va. Code §§ 30-1-8 and 30-40-1 *et seq.* and any procedural rules promulgated by the Commission.

At its discretion, the Commission also may schedule a hearing on its own initiative for the purpose of allowing the Commission to consider further discipline against the Respondents based upon the violation of this Order of the Commission.

**CONSENT DECREE AGREED TO BY:**

  
\_\_\_\_\_  
**RITA JO HAVERTY**  
Respondent

12-28-18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
**JOSEPH M. HAVERTY**  
Respondent

12/28/18  
\_\_\_\_\_  
Date

**ENTERED into the records of the Real Estate Commission this:**

8<sup>th</sup> day of January, 2018.

**WEST VIRGINIA REAL ESTATE COMMISSION,**

By:   
\_\_\_\_\_  
**Jerry A. Forren**  
Executive Director

**Jerry A. Forren**  
Executive Director