

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

v.

Formal Complaint No. C-21-016

PATRICK ALLEN LUCAS,
Licensed Real Estate Broker
License No. WV0012966
Respondent.

RECEIVED

MAR 05 2021

*West Virginia
Real Estate Commission*

CONSENT DECREE

Respondent Patrick Allen Lucas (“Respondent”) 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 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 is a licensed real estate broker in the State of West Virginia, holding license number WV0012966.
2. At all times relevant, Respondent served as the responsible broker for Homes & Land Real Estate, Inc., located in Barboursville, West Virginia.
3. On October 22, 2020, Commission staff conducted a compliance audit on Respondent’s brokerage. During the audit, Commission staff discovered that Respondent had been

operating a branch office at the Liberty Square shopping plaza for up to three years without approval by the Commission.

4. Respondent submitted a branch office application to the Commission on November 20, 2020, which was approved.

5. During the audit, Commission staff also determined that Respondent's trust account appeared to be out of balance. Commission staff established a November 13, 2020, deadline for Respondent to provide balanced trust account records. Respondent did not provide the records as scheduled, nor did he contact the Commission. Commission staff contacted Respondent on November 16, 2020, and set a new deadline of November 30, 2020, for the submission of balanced trust account records. Respondent failed to comply with this deadline as well, and did not notify Commission staff in advance. To date, Respondent has not submitted the trust account records requested during the October 22, 2020, compliance audit.

6. On December 16, 2020, the Commission initiated the present Complaint against Respondent alleging violations concerning the unlicensed branch office and failure to provide records required by an audit.

7. On January 4, 2021, Respondent submitted a written response to the complaint. Respondent disputed that a problem existed with his trust account. Respondent did not address his operation of an unlicensed branch office.

8. At its regularly-scheduled meeting on January 20, 2021, the Commission determined there was probable cause to conclude that Respondent violated the *West Virginia Real Estate License Act*, and authorized the proposal of this Consent Decree.

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)(24) authorizes the Commission to sanction a licensee if the licensee if the licensee “[f]ails to disclose any information within his or her knowledge or to produce any document, book, or record in his or her possession for inspection of and copying by the commission or its duly authorized representatives[s].”

4. West Virginia Code § 30-40-19(a)(29) authorizes the Commission to sanction a licensee if the licensee “[f]ails to maintain adequate records on the broker’s ‘trust fund account’[.]”

5. Respondent’s failure to submit the records requested by Commission staff during the October 22, 2020, violates West Virginia Code §§ 30-40-19(a)(24) and (29).

6. 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.” By Legislative Rule, licensed real estate brokers are required to obtain a license for every branch office. W.Va. Code R. § 174-1-14.

7. Respondent's multi-year operation of an unlicensed branch office violates West Virginia Code § 30-40-19(a)(19) and Legislative Rule, 174-1-14.

CONSENT

By signing below, 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 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 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 is hereby reprimanded and shall pay a fine in the amount \$1,000, payable to the State of West Virginia.

2. Respondent shall also reimburse the Commission its costs associated with this Complaint, and its attorney fees, in the amount of \$390.00.

3. Provided, however, that if Respondent submits the records requested during the October 22, 2020, audit to the Commission and receives written confirmation of compliance from

Commission staff within 14 calendar days of the entry of this Consent Decree, the fine shall be reduced from \$1,000 to \$500.

4. Respondent shall pay the fine and costs within 30 days of the entry of this Consent Decree by certified check or money order made payable to the State of West Virginia and sent directly to the Commission's Office.

5. 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 Respondent's license. The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree. In the event Respondent contests 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:

Patrick Lucas
Patrick Allen Lucas, Broker

February 25, 2021
Date

ENTERED into the records of the Real Estate Commission this:

5th day of March, 2021.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: Jerry A. Forren
Jerry A. Forren, Executive Director