

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Formal Complaint No. C-22-016

MARK MADORE,
Licensed Real Estate Broker
License No. WV0001026

and

MARGARET ANN OSBORNE,
Licensed Real Estate Salesperson
License No. WV0030246
Respondents.

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NOV 29 2021

*West Virginia
Real Estate Commission*

CONSENT DECREE

Respondent Mark O. Madore (“Respondent Madore”), Respondent Margaret Ann Osborne (“Respondent Osborne”), 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 each 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 Madore is a licensed real estate broker in the State of West Virginia, holding license number WV-0001026.
2. Respondent Osborne is a licensed real estate salesperson in the State of West Virginia, holding license number WV-0030246.

3. At all times relevant, Respondent Madore served as the responsible broker for Respondent Osborne at Family First Realty Co., Inc., located in Hurricane, West Virginia.

4. Real estate licenses must be renewed annually, on or before June 30.

5. Respondent Osborne failed to properly renew her license on active status on or before June 30, 2021 for the 2022 licensure year (July 1, 2021 – June 30, 2022). Thus, her license expired on July 1, 2021.

6. On or about September 6, 2021, Respondent Osborne submitted a renewal application for the 2022 licensure year.

7. The Commission requested that respondents submit information for any listings and sales that Respondent Osborne handled during the period that Respondent Osborne's license was expired. Respondent Madore submitted a list of transactions that Respondent Osborne handled as a real estate salesperson during the period her license was expired.

8. On September 28, 2021, the Commission initiated the present complaint against respondents.

9. Respondents submitted separate responses to the Commission. Respondents acknowledged that Respondent Osborne's failure to timely renew her license was an unintentional oversight.

10. At its regularly-scheduled meeting on November 2, 2021, the Commission determined there was probable cause to conclude that both respondents 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. Also with respect to a broker, West Virginia Code § 30-40-19(a)(30) authorizes the Commission to sanction a licensee if the licensee “[f]ails to adequately supervise all associate brokers and salespersons employed by him or her[.]”

6. By allowing Respondent Osborne to practice real estate while her license was expired, Respondent Madore violated West Virginia Code §§ 30-40-17(a)(5), 30-40-19(a)(23), and 30-40-19(a)(30).

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

CONSENT

By signing below, each Respondent agrees 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 either Respondent 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 acknowledge the Findings of Fact set forth above, admit that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consent to the entry of the following Order:

ORDER

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

1. Respondent Madore is hereby reprimanded and shall pay a fine in the amount \$500.00, payable to the State of West Virginia.

2. Respondent Osborne is hereby reprimanded and shall pay a fine in the amount \$500.00, payable to the State of West Virginia.

3. Respondents shall also reimburse the Commission its costs associated with this Complaint and its attorney fees, in the amount of \$260.00. Each respondent shall be responsible for one-half of this amount, totaling \$130.00 each.

4. Each respondent shall pay his/her fine and share of costs within thirty (30) days of the entry of this Consent Decree by the Commission 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 Respondents' licenses. The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree. In the event Respondents contest the alleged violation of the Consent Decree, Respondents are 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.

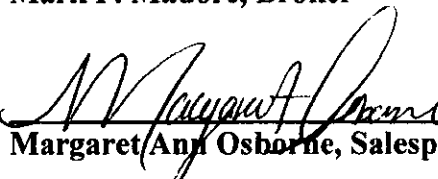
CONSENT DECREE AGREED TO BY:



Mark P. Madore, Broker

11/17/21

Date



Margaret Ann Osborne, Salesperson

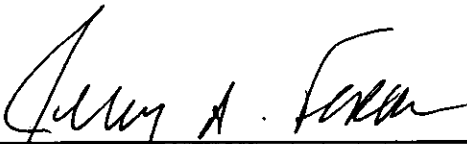
11/19/21

Date

ENTERED into the records of the Real Estate Commission this:

20th day of November, 2021.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 
Jerry A. Forren, Executive Director