

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Formal Complaint No. C-22-028

HOWARD W. HANNA III,
Licensed Real Estate Broker
License No. WV

and

ZACHARY SCOTT SMITH,
Licensed Real Estate Salesperson
License No. WV0024472
Respondents.

CONSENT DECREE

Respondent Howard W. Hanna III (“Respondent Hanna”), Respondent Zachary Scott Smith (“Respondent Smith”), 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 Hanna is a licensed real estate broker in the State of West Virginia, holding license number WV0023457..

2. Respondent Smith is a licensed real estate salesperson in the State of West Virginia, holding license number WV-0024472.

3. At all times relevant, Respondent Hanna served as the responsible broker for Respondent Smith at Langholz Wilson Ellis, Inc. dba Hanna Langholz Wilson Ellis, located in Pittsburgh, Pennsylvania.

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

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

6. On or about October 13, 2021, Respondent Smith submitted a renewal application for the 2022 licensure year.

7. The Commission requested that respondents submit information for any listings and sales that Respondent Smith handled during the period that Respondent Smith's license was expired. Kathy Ruffing, affiliated with Hanna Langholz Wilson Ellis, submitted a list of transactions that Respondent Smith handled as a real estate salesperson during the period his license was expired.

8. On December 15, 2021, the Commission initiated the present complaint against respondents.

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

10. At its regularly-scheduled meeting on February 16, 2022, 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 Smith to practice real estate while his license was expired, Respondent Hanna violated West Virginia Code §§ 30-40-17(a)(5), 30-40-19(a)(23), and 30-40-19(a)(30).

7. Respondent Smith 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:

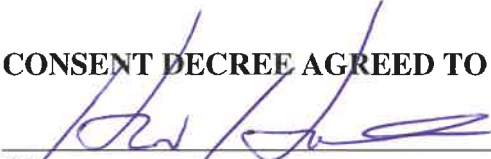
1. Respondent Hanna is hereby reprimanded and shall pay a fine in the amount \$500.00, payable to the State of West Virginia.

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

3. Each respondent shall pay his fine 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.

4. 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:



Howard W. Hanna III, Broker

3/22/22

Date



Zachary Scott Smith, Salesperson

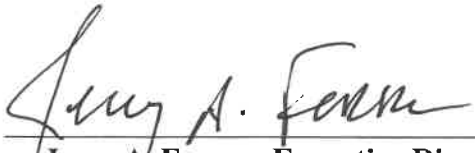
3/21/22

Date

ENTERED into the records of the Real Estate Commission this:

5th day of April, 2022.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 
Jerry A. Forren, Executive Director