

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

V.

Formal Complaint No. C-24-007

**EDWIN N. JAMES
Licensed Real Estate Broker
License No. WVB230300883**

Respondent.

CONSENT DECREE

Respondent Edwin N. James ("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 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 is a licensed real estate broker in the State of West Virginia, holding license number WVB230300883.



2. At all times relevant, Respondent was the responsible broker for Mumford Company, Inc., located in Lynchburg, Virginia.

3. On August 16, 2023, the Commission initiated the present Formal Complaint against Respondent concerning an advertisement that was brought to the Commission's attention. The advertisement was for the sale of a Hampton Inn & Suites located in Triadelphia, West Virginia, and contained the names of real estate agents Chris Stark and Joe Jones, neither of whom are licensed to practice real estate in this State.

4. The Commission's investigation revealed that Respondent entered into a Cooperating Broker Agreement with the out-of-State agents' brokerage, Avison Young, Atlanta LLC, which purported to permit Mr. Stark and Mr. Jones to work with Respondent with respect to the advertising and sale of the Triadelphia property in exchange for a \$5,000 payment to Respondent.

5. In his response to the Formal Complaint, Respondent acknowledged his mistake by entering into the Agreement. Respondent states that he was unaware that Avison Young, Atlanta, LLC had been marketing the property (unlawfully) prior to the execution of its Agreement with Respondent.

6. At its regular meeting on September 27, 2023, the Commission considered all of the information received on the matter and determined that there was probable cause to

conclude that Respondent's above-referenced conduct violated the *West Virginia Real Estate License Act*, and authorized the proposal of this Consent Decree to 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(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. The *West Virginia Real Estate License Act* does not recognize agreements by West Virginia licensees that purport to allow agents or brokerages not licensed in this State to practice real estate in this State. See W.Va. Code § 30-40-3 ("It is unlawful for any person to engage in directly or indirectly, or to advertise or hold himself or herself out as engaging in or carrying on the business or act in the capacity of a real estate broker, associate broker, or salesperson within this state without first obtaining a license as provided for in this article. Prior to practicing real estate brokerage in this state, a license shall be obtained from



the commission even if the person or entity is licensed in another state and is affiliated or otherwise associated with a licensed real estate broker in this state.”)

4. West Virginia Code § 30-40-19(a)(23) authorizes the Commission to sanction a licensee if he or she “accepts the services of any . . . salesperson who is not properly licensed[.]”

5. West Virginia Code § 30-40-19(a)(35) authorizes the Commission to sanction a licensee if he or she “[l]ends a broker’s license to any person, including a salesperson, or permits a salesperson to operate as a broker[.]”

6. Respondent’s conduct set forth above violates West Virginia Code §§ 30-40-19(a)(23) and (35).

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 shall pay a fine in the amount of \$1,000.00, by check made payable to the State of West Virginia and submitted to the Commission office.

2. Respondent shall complete three (3) hours of continuing education on the subject of West Virginia license law. Respondent shall submit to the Commission documentation evidencing completion of the course within the timeframe set forth herein. The three (3) required by this Consent Decree are in addition to the continuing education hours required for the annual renewal of Respondent's brokers license.

3. Respondent shall pay the fine and complete the required three (3) additional hours of continuing education within six (6) months of the entry of this Consent Decree.

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 Respondent's license. The Commission shall immediately notify Respondent 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.

CONSENT DECREE AGREED TO BY:



Edwin N. James


10/19/23

Date

ENTERED into the records of the Real Estate Commission this:

19th day of October, 2023.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

Keri L. Ferro, Executive Director