



## FINDINGS OF FACT

1. Respondent Hicks is a licensed real estate salesperson in the State of West Virginia, holding license number WV0029969. At all times relevant, Respondent Hicks was licensed with Real Living Solutions in Princeton, West Virginia.

2. Respondent Wood is a licensed real estate salesperson in the State of West Virginia, holding license number WV0007569. At all times relevant, Respondent Wood was licensed with Real Living Solutions in Princeton, West Virginia.

3. Elise Wade serves as the broker for Real Living Solutions and, thus, at all times relevant, supervised both Respondent Hicks and Respondent Wood.

4. On July 22, 2021, the Commission received a Formal Complaint from Glenn B. Ewald of Bluefield, West Virginia. Mr. Ewald is a licensed real estate appraiser, as well as a licensed real estate broker. The Commission docketed the complaint as L-22-004.

5. In his complaint, Mr. Ewald alleged that respondents “intentionally steered buyers, sellers, and lenders to preferred appraisers to achieve a predetermined result.” Mr. Ewald further alleged that on different occasions lenders had removed him from appraisal assignments in involving Respondents’ clients on the basis that Respondents’ clients claimed to have conflicts of interest with Mr. Ewald.

6. Mr. Ewald included with his complaint documents related to the sale of 109 Creekside Court, Bluefield, West Virginia. Respondent Wood served as the buyer’s agent and Respondent Hicks served as the seller’s agent in this transaction. One of the included documents was an addendum to the Listing Agreement entitled “Seller Requests,” signed by the seller and

Respondent Hicks. This "Seller Request" document contains the following restriction: "Due to conflict of interest, Glen Ewald and Steve Yost will not be permitted access to the property." [George] Steve Yost is a licensed real estate appraiser in the Bluefield area who is also licensed as a real estate broker.

7. On August 13, 2021, Respondents submitted a written response to Complaint L-22-004. In general terms, Respondents claimed that Mr. Ewald's "dual licensure," in and of itself, creates a conflict of interest because he practices both real estate appraising and real estate brokerage in the same area as, and in competition with, Real Living Solutions. To address this perceived conflict of interest, Respondents created the form included with Mr. Ewald's complaint. Respondents explained the form in their response as follows:

[Dual licensure] can be allowable if the interest is disclosed to all parties, a provision with which Mr. Ewald has failed to comply. Thus, our office created a form, which Mr. Ewald included with his formal complaint, that informs our clients of those conflicts, From there, clients can accept or refuse the service of appraisals being offered/provided that have an apparent conflict of interest due to Cornerstone's and Mr. Ewald's dual licensure, which places them in direct competition with other Realtors and companies in the Mercer Tazwell County Board.

8. Respondents did not present evidence that Mr. Ewald had previously performed appraisal services related to 109 Creekside Court.

9. Respondents do not believe that Mr. Ewald has lost business as a result of their alleged conduct. Respondents also state that Mr. Ewald is not the only appraiser who they believe has a conflict of interest resulting from dual licensure. Respondents state that George Steve Yost of Coldwell Banker/Yost Appraisal Services and Carolyn Ragan of Ragan Realty and Appraisals are dual-licensed and appraise their competitors' properties.

10. Respondents denied any violation of the Real Estate License Act and, conversely, identified behaviors by the identified dual-licensees that they believe to be improper and prejudicial.

11. One of the Commission's investigators, Robert Rucker, spoke with the seller 109 Creekside Court. The seller gave Mr. Rucker no reason to believe that she was the party who initiated discussion with Respondent Hicks or Respondent Wood related to a conflict with Mr. Ewald that would warrant Mr. Ewald's denial of access to her property.

12. Mr. Rucker also spoke with Respondent Hicks. Respondent Hicks informed Mr. Rucker that he initiated the discussion of the perceived conflict of interest allegedly created by dual licensure with the owner of 109 Creekside. Respondent Hicks asked his client if she would be "okay" with a competing real estate salesperson or broker conducting an appraisal on her property. The Commission views Mr. Hicks' question as an improper and leading question calculated to result in the client excluding any appraiser who also holds a real estate license, when in fact, the client has no actual conflict of interest with the appraiser that would warrant such exclusion. Respondents challenge that assessment but understand the authority of the Commission.

13. At its regular meeting on September 28, 2021, the Commission considered all of the information received on Complaint L-22-004 and determined that there was probable cause to conclude that certain aspects of Respondents' conduct alleged therein violates the *West Virginia Real Estate License Act*.

14. On December 10, 2021, George Steve Yost filed a Formal Complaint with the Commission against Respondent Wood and Respondent Hicks. Mr. Yost referenced Complaint No. L-22-004 and alleged that Respondents' conduct amounts to steering of appraisers, in violation of federal law. Mr. Yost also included a copy of Respondents' Sellers Request form related to the sale

of 109 Creekside Court. The Commission docketed this complaint as L-22-025. Respondents do not believe the Mr. Yost has lost business as a result of their alleged conduct.

15. On December 16, 2021, Glenn Ewald filed a second Formal Complaint against Respondent Hicks, alleging that, on December 10, 2021, he was assigned to, but later removed from, an appraisal assignment for a property located at 4 Paragon Jewel, Bluefield, West Virginia. Respondent Hicks served as a dual agent, representing both the buyer and seller of the property. Mr. Ewald alleged that the lender advised him that the reason for his removal from the appraisal assignment was that he (Mr. Ewald) had a family member interested in purchasing the property, which Mr. Ewald said is not true. Mr. Ewald stated that he has no family member with 700 miles of the Princeton/Bluefield area. The Commission docketed this complaint as L-22-026.

16. On December 13, 2021, Carolyn Ragan filed a Formal Complaint with the Commission against Respondent Wood and Respondent Hicks alleging that Respondents steer clients away from or toward certain appraisers in violation of federal law. Ms. Ragan also alleged, in relevant part, that “[t]here appears to also be a pattern of listing and selling overpriced listings, properties appraising for the listing price, appraiser selected by [respondents], [and] properties oversold to out of area buyers.” The Commission docketed the complaint as L-22-032. Respondents do not believe that Ms. Ragan lost business as a result of their alleged conduct.

17. By letter dated January 31, 2022, respondents, by counsel, submitted a joint response to Formal Complaints L-22-025, L-22-026, and L-22-032. Respondents denied that the conduct alleged in these three complaints violates the *Real Estate License Act*.

18. At its February 16, 2022, meeting, the Commission considered Formal Complaints L-22-025, L-22-026, and L-22-032, and the response. The Commission tabled further consideration of these three complaints 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(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)(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[.]”

4. Dual licensure, that is, holding both a license to practice real estate appraisal and real estate brokerage, in and of itself, does not create a conflict of interest on the part of the dual-licensee.

5. As alleged in Complaint L-22-004, Respondents’ conveying their incorrect perception to clients that dual licensure, in and of itself, warrants the clients’ exclusion of dual licensees from having access to the clients’ property violates West Virginia Code § 30-40-19(a)(37), and, if proven at hearing, would render Respondents’ licenses subject to discipline by the Commission.

6. Respondents deny that that their conduct violates the *Real Estate License Act*, but enter into this Consent Decree in order to resolve the pending complaints without the expense and uncertainty of litigation.

**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 acknowledge the Findings of Fact set forth above, admit that the Commission believes there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred with respect to L-22-004, and, while disputing the facts and conclusions herein, consent to the entry of the following Order:

**ORDER**

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

1. Respondents shall immediately, and for the duration of their licensure by the Commission, cease and desist from any conduct intended to result in a client excluding a licensed real estate appraiser from accessing the client's property on the basis that the appraiser also holds a

license to practice real estate brokerage, unless the client expressly initiates and requests the exclusion in writing.

2. Within six months of the entry of this Consent Decree, Respondents shall complete 3.5 hours of continuing education on the subject of West Virginia Real Estate Licensure Law. The 3.5 hours required by this paragraph may be counted toward the 7 hours of continuing education required for renewal of Respondents' licenses.

3. Upon completion of the continuing education requirement, the Commission shall dismiss, without prejudice, Complaints L-22-025, L-22-026, and L-22-032.

4. Any deviation from the requirements of this Consent Decree, without the prior written approval 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 and/or re-initiation of Complaints L-22-025, L-22-026, and L-22-032. The Commission shall immediately notify each Respondent 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.

**CONSENT DECREE AGREED TO BY:**

  
BRANDON HICKS

4-18-2022  
Date

\_\_\_\_\_  
CHRISTY WOOD

\_\_\_\_\_  
Date



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\_\_\_\_\_  
**BRANDON HICKS**

\_\_\_\_\_  
**Date**

4/20/2022

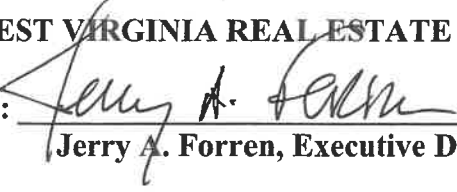
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*Christy Wood*  
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**CHRISTY WOOD**

\_\_\_\_\_  
**Date**

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

21<sup>st</sup> day of April, 2022.

**WEST VIRGINIA REAL ESTATE COMMISSION,**

By:   
Jerry A. Forren, Executive Director