

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

**WEST VIRGINIA REAL ESTATE COMMISSION,**

*Complainant,*

v.

**Formal Complaint No. L-22-035**

**TRACY EVANS  
Licensed Real Estate Salesperson  
License No. WV0027835**

*Respondent.*

**CONSENT DECREE**

Respondent Tracy Evans (“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 salesperson in the State of West Virginia, holding license number WV0027835.
2. At all times relevant, Respondent practiced under the supervision of Christie Hayes, licensed real estate broker with Birdhouse Realty, LCC, in Fairmont, West Virginia.
3. On January 13, 2022, Ms. Hayes filed a Formal Complaint with the Commission alleging that Respondent signed Ms. Hayes’ signature to a listing agreement in February of 2021 without Ms. Hayes’ knowledge or permission. Ms. Hayes stated that she did not learn of

Respondent's conduct until January 4, 2022, when Respondent notified Ms. Hayes that she was changing responsible brokers and Ms. Hayes began the process of closing Respondent's files.

4. Ms. Hayes stated in her complaint that she contacted one of the brokerage's clients, Xome (a real estate owned company that handles bank foreclosures) to take over the listing from Respondent. When examining the master listing agreement between Birdhouse Realty and Xome, Ms. Hayes noticed that the agreement required the execution of a "broker of record" or "managing broker."

5. The master listing agreement bears the signature of "Christie Hayes" as the authorized signatory for Birdhouse Realty, LLC, and is dated February 25, 2021.

6. Ms. Hayes did not sign the agreement.

7. Ms. Hayes contacted Respondent by email on January 5, 2022, and told Respondent it was unacceptable for Respondent to sign Ms. Hayes' name to any document without her authorization.

8. Respondent replied to Ms. Hayes and contended that Ms. Hayes had verbally authorized Respondent to sign Ms. Hayes' signature to the master listing agreement. Ms. Hayes disputed Respondent's contention. Ms. Hayes filed the present Formal Complaint on January 13, 2022.

9. On February 3, 2022, Respondent submitted a response to the Formal Complaint. In relevant part, Respondent contended that she discussed with Ms. Hayes that she (Respondent) would bring real estate owned business to Birdhouse Realty, LLC, and that it was Respondent's

understanding that Ms. Hayes gave her permission to sign Ms. Hayes' name to the listing agreement.

Respondent characterized the events as a "misunderstanding in communication."

10. Respondent produced nothing in writing from Ms. Hayes granting Respondent authorization to sign Ms. Hayes' name to the listing agreement.

11. At its regular meeting on March 16, 2022, 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*.

### 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)(37) authorizes the Commission to sanction a licensee if he or she "[e]ngages in any act or conduct which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing[.]"

4. Respondent's conduct in signing Ms. Hayes' name to the Xome listing agreement without Ms. Hayes' clear authorization violates West Virginia Code § 30-40-19(a)(37) and renders Respondent's license subject to discipline.

## 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 she may pursue this matter through appropriate administrative proceedings and is aware of her 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.
2. Respondent shall pay a fine in the amount of \$500.00.
3. The total payment of \$500.00 shall be paid 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 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. Any 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. At its discretion, the Commission also may schedule a hearing on its own initiative for the purpose of allowing the Commission to consider further discipline against Respondent based upon Respondent's violation of this Order of the Commission.

**CONSENT DECREE AGREED TO BY:**

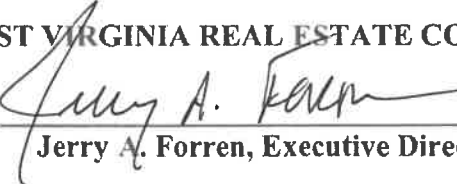
  
\_\_\_\_\_  
Tracy Evans

6-21-2022  
\_\_\_\_\_  
Date

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

21 day of June, 2022.

**WEST VIRGINIA REAL ESTATE COMMISSION,**

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