

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

Formal Complaint No. L-20-014

**JEFF SPICKLER,
Licensed Real Estate Salesperson
License No. WV-0014436**

Respondent.

CONSENT DECREE

Respondent Jeff Spickler (“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 in which 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 is a licensed real estate salesperson in the State of West Virginia, holding license number WV-0014436. Respondent is licensed with RE/MAX Real Estate Group in Charles Town, West Virginia.

2. At all times relevant, Respondent was the listing agent on a property located at 5056 Sulphur Springs Road, Kearneysville, West Virginia (“subject property”).

3. The subject property consisted of a 10-acre parcel and a brick home situated thereon. The owners of the subject property are elderly and reside in Montgomery County, Maryland,

4. On or about May 15, 2019, a tenant moved into the subject property in accordance with a lease/purchase agreement.

5. Around the time the tenant moved into subject property, Respondent ordered inspections of the septic system and to detect the presence of termites. Respondent received copies of both inspection reports, which, respectively, revealed a crack in the septic tank and the presence of termites.

6. The tenant vacated the subject property on or about October 15, 2019, and the subject property went back onto the market for sale.

7. On or about November 26, 2019, Respondent received an offer to purchase the subject property from potential buyers who were represented by licensed real estate salesperson Angela Kable Johnson.

8. Around December 9, 2019, the parties entered into a purchase agreement on the subject property, with a closing date of January 31, 2020.

9. When Ms. Johnson submitted the purchase offer on behalf of her clients, she requested a sellers' disclosure reflecting defects in the property. In response to Ms. Johnsons' request, Respondent sent her a sellers' disclosure that had been signed by the sellers in or around October of 2018, which did not reveal the defect(s) in the septic tank or the presence of termites in the subject property.

10. Consistent with a contingency in the purchase agreement, Ms. Johnson's clients had a home inspection performed on the subject property on December 28, 2019. The inspection revealed multiple issues with the subject property, which resulted in the parties renegotiating and agreeing to a lower sale price.

11. Shortly thereafter, another inspection was scheduled on the subject property for, among other things, termites. On the same day as this inspection, January 20, 2020, Respondent advised Ms. Johnson to her surprise that the home was being treated for termites. The inspector on January 20, 2020, was the same inspector who inspected the property in May of 2019 and issued the report to Respondent at that time. Ms. Johnson requested that the inspector send her a copy of the May 2019 termite inspection report, and he complied.

12. Respondent did not disclose the presence of termites in the subject property prior to January 20, 2020, even though that information was known to him in May of 2019.

13. With respect to the septic system, on January 20, 2020, Respondent sent Ms. Johnson a septic pump invoice from June of 2019 that showed that the septic tank was cracked at that time.

14. Respondent did not disclose that the septic tank was cracked prior to January 20, 2020, even though that information was known to him in June of 2019.

15. On or about January 27, 2020, Ms. Johnson's clients elected to not purchase the subject property and did not proceed with the closing.

16. On May 8, 2020, Ms. Johnson filed a Formal Complaint against Respondent alleging, among other things, that Respondent failed to disclose two known defects in the subject property – the presence of termites and the cracked septic tank.

17. By letter dated June 1, 2020, Respondent responded to the Formal Complaint, stating in relevant part that his failure to make the required disclosure were not “in an attempt to be irresponsible or deceitful.”

18. At its regular meeting on June 17, 2020, 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(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)(22) authorizes the Commission to sanction a licensee if the licensee “[c]omits or is a party to any material . . . concealment . . . whereby any other person relies upon the word, representation or conduct of the licensee[.]”

4. 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 . . . improper dealing[.]”

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, consents to the Commission's finding that probable cause exists 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 \$1,000.
3. Respondent shall reimburse the Commission its costs associated with this Complaint and its attorney fees, in the amount of \$845.
4. The total payment of \$1,845 shall be paid within thirty (30) days of the entry of this Consent Decree 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 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:



Jeff Spickler

8-7-2020

Date

ENTERED into the records of the Real Estate Commission this:

18th day of AUGUST, 2020.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

Jerry A. Forren, Executive Director