

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

**WEST VIRGINIA REAL ESTATE COMMISSION,
*Complainant,***

V.

Formal Complaint No. 25-012-L

**ISAAC NOYES SMITH V
Licensed Real Estate Salesperson, License No. WV0028964
*Respondent.***

CONSENT DECREE

Respondent Isaac Noyes Smith V (“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. At all times relevant, Respondent was licensed by the Commission as a real estate salesperson, holding license number WV0028964, and practiced with Real Corp, LLC, located in Charleston, West Virginia.
2. On September 9, 2024, the Commission received a Formal Complaint filed against Respondent by licensed real estate broker Josh McGrath, Better Homes and Gardens Real Estate Central, located in Charleston, West Virginia.
3. The Complaint related to the sale of a property located at 1652 4th Avenue, Charleston, West Virginia. Respondent was the listing agent for this property. Mr. McGrath represented the buyer.

4. The Purchase Agreement was signed by the buyer and seller on or about June 15, 2024. Among other terms, the Purchase Agreement stated that Better Homes and Gardens Real Estate Central would receive a commission in the amount of 5% of the total sales price.

5. Prior to closing, BesTitle sent the closing statement to Mr. McGrath and Respondent indicating that Better Homes and Gardens Real Estate Central would receive a commission in the amount of 5% of the total sales price, consistent with the Purchase Agreement.

6. After reviewing the closing statement, Respondent unilaterally contacted BesTitle and stated that the commission should be split evenly between him and Mr. McGrath. BesTitle modified the closing statement based on Respondent's unilateral statement.

7. Respondent's statement to BesTitle regarding the commission split was inconsistent with the terms agreed upon by the parties in an Addendum to the Purchase Agreement.

8. Ultimately, the transaction proceeded to closing and Mr. McGrath sought to recover the commission he believed was due him from seller and Respondent afterwards.

9. At its regular meeting on October 16, 2024, 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(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 he or she “[e]ngages in any act or conduct which constitutes or demonstrates bad faith, incompetency, untrustworthiness, or dishonest, fraudulent, or improper dealing[.]”

4. West Virginia Code § 30-40-19(a)(38) authorizes the Commission to sanction a licensee if he or she “[i]nduces any person to alter, modify, or change another licensee’s fee or commission for brokerage services, without that licensee’s prior written consent[.]”

5. Respondent’s above-referenced conduct violates West Virginia Code §§ 30-40-19(a)(37) and (38) and renders his license subject to discipline by the Commission.

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 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 reimburse the Commission's administrative costs, including attorney fees, in the amount of \$560.00, by check made payable to the State of West Virginia and submitted to the Commission office within 30 days of entry of this Consent Decree.
3. 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:


Isaac Noyes Smith

12/2/24
Date

ENTERED into the records of the Real Estate Commission this:

2nd day of December, 2024.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

Keri L. Ferro, Executive Director