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BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

Formal Complaint No. C-13-020

SHERYL CURTIS,

assoc broker

Respondent.

CONSENT DECREE

The Respondent, **SHERYL CURTIS** (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Richard E. Strader, its Executive Director, enter into the following Consent Decree for the purpose of resolving the above-styled complaint that has been filed against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in this Consent Decree concerning the proper disposition of this matter. The Commission, having approved such agreement, does hereby Find and Order as follows:

Findings of Fact

1. The Commission, as the state entity created to regulate the conduct of real estate brokers, associate brokers and salespersons, has jurisdiction over this Complaint.
2. Respondent is an associate broker licensed by the Commission, holding license number WV-0026351.

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*broker dismissed
\$300 + costs*

3. On June 11, 2012, the Commission received from the Respondent a completed renewal form on which Respondent sought to renew her license on active status for the July 1, 2012-June 30, 2013 licensure year, indicating on the form that she had completed twenty-four (24) hours of continuing education classes after July 1, 2011.

4. Based on Respondent's representation, the Commission renewed her license on active status for the 2012-2013 licensure year.

5. Subsequently, Respondent was randomly selected by the Commission to verify completion of the continuing education indicated on the renewal form and was required to produce the completion certificate(s) for the courses.

6. Respondent, on December 6, 2012, notified the Commission in writing, admitting that she had not completed her continuing education requirements and was in the process of obtaining the required number of hours.

7. Later on the same day, Respondent submitted a completion certificate for three (3) hours of continuing education dated July 26, 2012, and on December 20, 2012, submitted a completion certificate for eight (8) hours of continuing education completed on December 18, 2012, which brought Respondent into compliance with the continuing education requirement for the 2012-2013 licensure year.

8. On February 21, 2013, the Commission initiated the above-styled complaint on the basis that Respondent had renewed her license through the submission of false information and had not completed the seven (7) hours of continuing education after July 1, 2011, as required in order to renew her real estate license.

9. Respondent's broker, Nellie Wiley, was also served a copy of the Complaint and given an opportunity to respond.

10. Respondent's broker, in response to the Complaint, represented that, in a hurry to get the renewal information in the mail, she and Respondent filled out the education form based on what was provided by a real estate school, not realizing that the February 2011 completion date was outside the time frame for continuing education for the 2012-2013 licensure year, and that Respondent had signed the form, not noticing the dates and relying on Ms. Wiley's representation that she had obtained the dates from the school.

11. Respondent, in response to the Complaint, admitted that the information on the renewal form regarding continuing education did not comply with the Commission's continuing education requirement in that the continuing education courses set forth were not completed after July 1, 2011, apologized for the oversight, stated that the mistake was in part due to Virginia's requirement of continuing education every two years, and noted that upon receiving the notice of audit she immediately rectified the situation.

12. Based on the responses received, the Commission found probable cause to proceed against Respondent, and the parties have agreed to settle the Complaint informally through the entry of this Consent Decree.

13. The February 2011 continuing education courses are listed under the statement that the applicant has "completed the following continuing education courses, which were completed after July 1, 2011" and, while that information is clearly false, the Commission accepts that Respondent's mistatement was an oversight and not intended to deceive the Board.

14. The Commission has incurred expenses in the prosecution of this complaint in an amount well in excess of \$180.00, which expenses relate solely to the Commission's legal expenses and do not include costs reflecting time expended by Commission staff and other expenses incurred by the Commission.

Conclusions of Law

1. West Virginia Code § 30-40-1 *et seq.*, vests the Commission with the authority and responsibility to regulate real estate brokers, associate brokers and salespersons in the State of West Virginia.

2. Pursuant to West Virginia Code § 30-40-19(a)(1), the Commission may suspend, revoke or otherwise sanction a licensee who “[o]btains, renews or attempts to obtain or renew a license, for himself, herself or another, through the submission of any application or other writing that contains false ... information.”

3. West Virginia Code § 30-40-16 requires that every licensee complete seven (7) hours of continuing education annually in order to renew his or her license.

4. Even though inadvertent, by representing on her 2012-2013 renewal form that she had completed the required continuing education during the required time period when she had not done so, Respondent did not comply with the continuing education requirement, in violation of West Virginia Code § 30-40-16, and renewed her license though the submission of an application containing false ... information, in violation of West Virginia Code § 30-40-19(a)(1).

5. The Commission may assess administrative costs, which shall be placed in the account of the Commission. Any fine shall be deposited in the state treasury's general revenue account. West Virginia Code § 30-1-8(a).

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 consents to the findings above and to the entry of the following Order:

Order

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

1. Respondent is REPRIMANDED.

2. Within 30 days of the entry of this Consent Decree, Respondent shall pay a fine in the amount of five hundred dollars (\$500.00), plus a portion of the Commission's costs in this matter in the amount of one hundred eighty dollars (\$180.00), for a total payment of six hundred and eighty dollars (\$680.00). ^{CC or MD} Checks shall be made payable to the State of West Virginia and sent directly to the Commission Office.

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,

upon action by the Commission, result in the summary suspension of Respondent's license until such time as Respondent achieves full compliance.

The Commission shall immediately notify Respondent via certified mail of the alleged violation of the Consent Decree and the summary suspension of Respondent's license. Respondent may request probationary reinstatement of the license through renewal of this Consent Decree, or execution of a new Consent decree which may contain different or additional terms. The Commission is not bound to comply with Respondent's request for probationary reinstatement.

In the event Respondent contests the allegations of violation of the Consent Decree resulting in the suspension of Respondent's license, Respondent may request a hearing to seek reinstatement of her license. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia 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.

AGREED TO BY:

SHERYL CURTIS

DATE

ENTERED into the records of the Real Estate Commission this:

_____ day of _____, 2013.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: _____
RICHARD E. STRADER,
EXECUTIVE DIRECTOR