

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

19(a)(1) + 16  
application  
fine

WEST VIRGINIA  
REAL ESTATE COMMISSION,

*Complainant,*

v.

Formal Complaint No. C-14-025

NICOLE SAUNDERS,  
Licensed Salesperson,  
License No. WV-0026974

Ø as to broker

*Respondent.*

**CONSENT DECREE**

The Respondent, Nicole Saunders (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 a salesperson licensed by the Commission, holding license number WV-0026974.

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3. On June 21, 2013, the Commission received from the Respondent a completed renewal form whereby Respondent sought to renew her license on active status for the July 1, 2013-June 30, 2014 licensure year, indicating on the form that she had completed seven (7) hours of continuing education classes after July 1, 2012, completing same on May 30, 2013.

4. At the time of the renewal, Respondent was supervised by Broker Jeff Mangus ("Broker Mangus") at Cornerstone Realty, LLC in Hurricane, West Virginia (at times referred to as "Respondent's former brokerage").

5. Based on Respondent's representation, the Commission renewed her license on active status for the 2013-2014 licensure year.

6. On November 22, 2013, the Commission sent the supervising broker at Respondent's former brokerage, Jan Hoover ("Broker Hoover"), a letter requesting verification of compliance with the Commission's continuing education requirement, listing four individuals including the Respondent.

7. The Commission was informed in writing by Broker Hoover that there was no completion certificate in Respondent's file; that Respondent would send the certificate to the Commission; that Broker Mangus was the broker who signed off on Respondent's continuing education; and other updates.

8. On or about October 23, 2013, Broker Mangus terminated his broker's license with Cornerstone Realty, LLC, upon Broker Hoover assuming the position of broker at Cornerstone Realty, LLC.

9. On or about November 27, 2013, Respondent transferred her license to Great Expectations Realty in Charleston, West Virginia.

10. This complaint was initiated by the Commission against Broker Mangus and Respondent by motion properly made and seconded at the meeting of the Real Estate Commission on February 19, 2014, and served upon Broker Mangus and Respondent who, by the date of the Complaint, were both associated with West Virginia Realty, LLC.

11. Broker Mangus, by correspondence received March 5, 2014, informed the Commission that he and Cornerstone were new, that he made a mistake in signing the form without actually seeing the document at hand, and that it would not happen again.

12. By email to the Commission dated March 17, 2014, Respondent stated that the online course was taken during her former employment as a realty agent for a state agency, that those files could no longer be accessed, that she was requesting information from the course provider, and that in the future she would take all continuing education classes in person.

13. Documents provided by Respondent and Broker Mangus evidence that on April 2, 2013, Respondent was notified by way of email that she had completed the online course, but needed to take and pass the final exam before receiving a completion.

14. Respondent knew at the time she submitted the renewal that she still had not completed the continuing education course listed on the form and, as of March 26, 2014, Respondent still had not complied with the continuing education requirement despite the pendency of this complaint.

15. Based on the documents provided and the Complaint responses received, the Commission found probable cause to proceed against Respondent at its meeting on March 26, 2014, for violation of West Virginia Code § 30-40-19(a)(1) and West Virginia Code § 30-40-16.

16. Although the point made by Broker Mangus that he and the company were new was not well taken, the Board did not find probable cause to proceed against Broker Mangus in connection with this Complaint.

17. The parties have agreed to settle the Complaint informally through the entry of this Consent Decree.

18. The Commission has incurred expenses in the prosecution of this complaint in an amount in excess of three hundred ninety dollars (\$390.00), 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, fraudulent or misleading 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. By representing on her 2013-2014 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 through the submission of an application containing false, fraudulent or misleading 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 acknowledges the Findings of Fact set forth above, admits to the violations set forth above in the Conclusions of Law, 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 REPRIMANDED.

2. Within 30 days of the entry of this Consent Decree, Respondent shall complete a seven (7) hour continuing education course for the renewal year 2013-2014, after which Respondent shall submit documentation to the Commission demonstrating successful completion of the course.

3. Should Respondent submit an application for renewal for the 2014-2015 renewal year, the application shall include documentation of successful completion of an additional seven (7) hour continuing education course for the 2014-2015 renewal year.

4. Within thirty (30) days of the entry of this Consent Decree, Respondent shall pay a fine in the amount of seven hundred fifty dollars (\$750.00), plus the Commission's costs in this matter in the amount of three hundred ninety dollars (\$390.00), for a total payment of one thousand one hundred forty dollars (\$1,140.00).

5. Payment shall be made within thirty (30) days of the entry of this Consent Decree by the Commission and shall be paid by certified check or money order payable to the State of West Virginia and sent directly to the offices of the Commission.

6. 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:**


  
\_\_\_\_\_  
NICOLE SAUNDERS

5/8/14  
\_\_\_\_\_  
DATE

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

8<sup>th</sup> day of May, 2014.

**WEST VIRGINIA REAL ESTATE COMMISSION,**

By:   
\_\_\_\_\_  
RICHARD E. STRADER,  
EXECUTIVE DIRECTOR