

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

**WEST VIRGINIA
REAL ESTATE COMMISSION,**

Complainant,

v.

**Complaint Nos. C-15-014
 L-15-019**

**JEFFREY MANGUS,
Licensed Real Estate Broker
License No. WV-0025765**

Respondent.

CONSENT DECREE

Now comes the Respondent, Jeffrey Mangus (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Richard E. Strader, its Executive Director ("the parties"), for the purpose of resolving complaints filed against Respondent by the Commission and by another licensee. 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 these matters. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Commission is a state entity created by West Virginia Code § 30-40-1 *et seq.*, and is authorized to regulate the conduct of real estate brokers, associate brokers and salespersons.
2. Respondent is a broker licensed by the Commission, holding license number WV-0025765, currently operating West Virginia Realty, Inc., in Hurricane, West Virginia.

3. The Commission initiated Complaint C-15-014 by action taken at its regular meeting on December 10, 2014, which alleged that Respondent had violated the West Virginia Real Estate License Act in regard to certain acts which came to the attention of the Commission in connection with another pending complaint (P-15-010, "the related complaint") involving his salespeople who were advertising, operating under a trade name and out of a branch office in Ripley, West Virginia, that was not registered or licensed with the Commission.

4. Specifically, Complaint C-15-014 alleged:

- a. that Respondent failed to adequately supervise his salespeople by neglecting to ensure that all of their advertising was under the direct supervision and in the name of Respondent Mangus, as the employing broker;
- b. allowing false and misleading advertising;
- c. allowing the salespeople to operate under a trade name that was not registered with the Real Estate Commission; and
- d. failing to license a branch office.

5. Respondent was served a copy of Complaint C-15-014 and, in his response received December 16, 2014, Respondent stated that all the legal requirements had been met in connection with the branch office's signage, that the Ripley address was not a branch office by the salespeople's personal address, that the Ripley address was not associated with his realty company nor did he desire to have an office at that location; that the trade name was not a name he wished to use; and that the trade name had also been used in advertising when the salespeople were with a previous supervising broker.

6. In further response received January 27, 2015, Respondent reiterated his response to the related complaint and provided his file regarding the property that was the subject of that complaint.

7. On February 19, 2015, a licensee filed a complaint against Respondent, L-15-019, which alleged that Respondent signed her name to a transfer form based on a phone conversation wherein the complainant had agreed to work for Respondent's company but had later communicated she was instead going to another brokerage.

8. Respondent admitted the allegations in L-15-019 in his response to the Complaint.

9. At its meeting on March 18, 2015, the Commission found probable cause to proceed against Respondent in connection with C-15-014 for violation of W. Va. Code § 30-40-17(a)(1), W. Va. Code R. § 174-1-5.1 and W. Va. Code §§ 30-40-19(a)(30), (35) and (37).

10. The Commission, at the same meeting, also found probable cause to proceed against Respondent in connection with L-15-019 for violation of W. Va. Code §§ 30-40-19(a)(1), (22) and (37).

11. The Commission then adopted a motion to consolidate the two complaints for purposes of hearing or possible settlement.

12. The Commission finds that the Ripley office and the trade name utilized by his salespeople in advertising and for all real estate purposes was a branch office and trade name which should have been duly registered and/or licensed with the Commission by Respondent as their supervising broker.

13. The parties have agreed to settle the Complaints informally through the entry of this Consent Decree.

14. The Commission has incurred expenses in the prosecution of these complaints in the amount of at least six hundred fifty dollars (\$650.00), 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. West Virginia Code § 30-40-7(1) gives the Commission all the discretionary power to “impose one or more sanctions as considered appropriate in the circumstances for the discipline of a licensee. Available sanctions include, but are not limited to, denial of a license or renewal thereof, administrative fine not to exceed one thousand dollars per day per violation, probation, revocation, suspension, restitution, require additional education, censure, denial of future license, downgrade of license, reprimand or order the return of compensation collected from an injured consumer.”
3. Pursuant to W. Va. Code § 30-40-17(a)(1), “(e)very person holding a broker's license under the provisions of this article shall ... (h)ave and maintain a definite place of business within this state, ... and the broker may not transact business at any other location, unless such other location is properly licensed by the commission as a branch office ...”
4. West Virginia Code R. § 174-1-5.1 “Register of branch office” requires that “(e)very licensed broker who desires to conduct brokerage transactions at any location other than the principal place of business must make application for a branch office license and pay the required fee in order to receive a license certificate for each branch office... The permanence, use, and character of activities conducted at the office or shelter shall determine whether it must be registered.”
5. Respondent’s failure to register the Ripley branch office violated W. Va. Code § 30-40-17(a)(1) and W. Va. Code R. § 174-1-5.

6. West Virginia Code § 30-40-19(a)(30) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensed broker if the broker “[f]ails to adequately supervise all associate brokers and salespersons employed by him or her.”
7. Respondent’s allowing his salespeople to advertise and operate under a trade name and out of a branch office that was not registered with or licensed by the Commission constitutes a failure to supervise in violation of W. Va. Code § 30-40-19(a)(30).
8. West Virginia Code § 30-40-19(a)(35) authorizes sanctions against any licensee who “(l)ends a broker’s license to any person, including a salesperson, or permits a salesperson to operate as a broker.”
9. Respondent’s allowing his salespeople to advertise and operate under a trade name and out of a branch office that was not registered with or licensed by the Commission constitutes lending the salespeople operating the branch office his broker’s license, in violation of W. Va. Code § 30-40-19(a)(35).
10. Pursuant to W. Va. 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.”
11. By signing another licensee’s name to a transfer form and filing same with the Commission, submitted a writing that contained false, fraudulent or misleading information, in violation of W. Va. Code § 30-40-19(a)(1).
12. West Virginia Code § 30-40-19(a)(22) provides that the Commission may revoke, suspend or otherwise discipline a licensee if the licensee “[c]ommits or is a party to any material

fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or other device whereby any other person relies upon the word, representation or conduct of the licensee.”

13. Respondent’s signing another licensee’s name to a transfer form submitted to the Commission constitutes a material fraud, misrepresentation, concealment or other which was relied upon by the Commission, in violation of W. Va. Code § 30-40-19(a)(22).

14. West Virginia Code § 30-40-19(a)(37) provides that the Commission may revoke, suspend or impose any other sanction against a licensee if the licensee “(e)ngages in any act or conduct which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing.”

15. Respondent’s failure to supervise his salespeople in the Ripley office constitutes or demonstrates incompetency and improper dealing in violation of W. Va. Code § 30-40-19(a)(37).

16. Respondent’s signing another licensee’s name to a transfer form submitted to the Commission constitutes and demonstrates bad faith, untrustworthiness, and dishonest, fraudulent and improper dealing in violation of W. Va. Code § 30-40-19(a)(37).

17. The above violations render the Respondent’s license subject to discipline by the Commission.

18. The Commission may assess administrative costs. W. Va. Code § 30-40-21(g). Costs shall be placed in the account of the Commission, and any fine shall be deposited in the state treasury’s general revenue account. W. Va. 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 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 consents to the findings above and to the entry of the following Order:

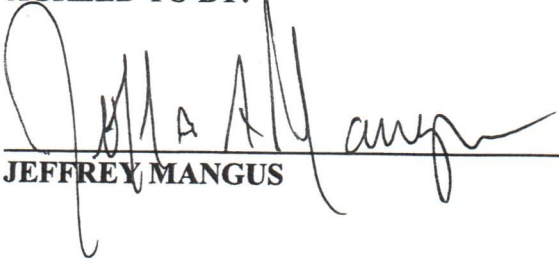
ORDER

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

1. Respondent's license is **REVOKED**.
2. Respondent shall pay the costs associated with these Complaints in the discounted amount of six hundred fifty dollars (\$650.00).
3. The administrative costs 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. Respondent is ineligible for applying for a license until after the expiration of two years from the date of revocation as evidenced by the entry date of this Consent Decree pursuant to W. Va. Code § 30-1-21(f).
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 action taken by the Commission.

[signature lines appear next page]

AGREED TO BY:



JEFFREY MANGUS


5-11-15

DATE

ENTERED into the records of the Real Estate Commission this:

13 day of May, 2015.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

RICHARD E. STRADER
EXECUTIVE DIRECTOR