

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

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WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

Formal Complaint No. C-15-018

JAMES WEILER, III,
Licensed Broker,
License No. WV-0012436

Respondent.

CONSENT DECREE

The Respondent, JAMES WEILER (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 filed against Respondent by the Commission. 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 broker licensed by the Commission, holding license number WV-0012436 under the firm name Weiler Realty Group, Inc., and doing business as Real Estate Unlimited (REU), which has licensed a branch office in Scott Depot since February 14, 2003, which it advertises as its Teays Valley Office.

2. Pursuant to West Virginia 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 ...”

3. 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.”

4. West Virginia Code R. § 174-1-13.1 “Duty to renew” requires “all licensees to register with the Commission and to renew their licenses by paying the renewal fee for a license as set forth under separate rule.”

5. West Virginia Code R. § 174-1-13.2 “Operating without license” states that “(a)ny licensee who does not register as required by this section, but continues to operate when a license is required, is in violation of West Virginia Code § 30-40-1 *et seq.*”

6. Respondent’s failure to renew the 2014-2015 branch office license, and continue to operate same while not properly licensed, violates West Virginia Code § 30-40-17(a)(1), West Virginia Code R. § 174-1-5, and West Virginia Code R. §§ 174-1-13.1 and 13.2.

5. The Commission may assess administrative costs. West Virginia 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. 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 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 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 thirty (30) days of the entry of this Consent Decree, Respondent shall pay a fine in the amount of five hundred dollars (\$500.00), plus the Commission's costs in this matter in the amount of three hundred ninety dollars (\$390.00), for a total payment of eight hundred ninety dollars (\$890.00).
3. 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.

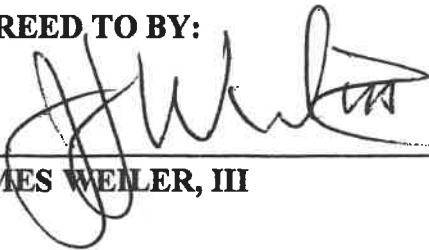
4. Any deviation from the requirements of this Consent Decree, without the prior written consent of the Commission, shall constitute a violation of an Order of the Commission and may, upon action by the Commission, result in the summary suspension of Respondent's license until such time as Respondent 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 his 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:



JAMES WEILER, III

4-17-15

DATE

ENTERED into the records of the Real Estate Commission this:

1st day of May, 2015.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:



RICHARD E. STRADER,

EXECUTIVE DIRECTOR