

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Formal Complaint No. C-24-023

ROXANNA L. HELMICK,
Licensed Real Estate Broker
License No. WVB200300618

and

DESTINY D. KUHLMAN,
Licensed Real Estate Salesperson
License No. WVS210301395

Respondents.

AMENDED
CONSENT DECREE

Respondent Roxanna L. Helmick (“Respondent Helmick”), Respondent Destiny D. Kuhlman (“Respondent Kuhlman”), 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 in which each Respondent agrees and stipulates 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. Respondent Helmick is a licensed real estate broker in the State of West Virginia, holding license number WVB200300618.
2. Respondent Kuhlman is a licensed real estate salesperson in the State of West Virginia, holding license number WVS210301395.

3. At all times relevant, Respondent Helmick served as the broker for Cypress Services, Inc., dba Cypress Properties in Moorefield, West Virginia. Respondent Kuhlman practices under Respondent Helmick's supervision as a salesperson in the brokerage.

4. Real estate licenses must be renewed annually, on or before June 30.

5. Respondent Kuhlman failed to properly renew her license on active status on or before June 30, 2023 for the 2024 licensure year. Thus, her license expired on July 1, 2023.

6. The Commission received a license status update form on October 16, 2023, to reactivate Respondent Kuhlman's license.

7. During the period that her license was expired, Respondent Kuhlman was advertised as a salesperson on the brokerage website.

8. On December 12, 2023, the Commission initiated the present complaint against respondents.

9. Respondent Helmick submitted a response to the complaint and acknowledged that the failure to remove Respondent Kuhlman from the brokerage website was an oversight.

10. At its regularly-scheduled meeting on January 24, 2024, the Commission determined there was probable cause to conclude that both respondents violated the *West Virginia Real Estate License Act*, and authorized the proposal of a consent decree to informally resolve the matter.

11. Subsequently, Respondent Kuhlman requested that the Commission place her salesperson license on inactive status.

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(l) 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)(19) authorizes the Commission to sanction a licensee if the licensee “[v]iolates any of the provisions of the *West Virginia Real Estate License Act*], any rule or order or final decision issued by the commission.” West Virginia Code § 30-40-17(a)(5) mandates that a real estate broker “[m]aintain in his or her custody and control the license of each associate broker and salesperson employed by him or her[.]”

4. West Virginia Code § 30-40-19(a)(23) authorizes the Commission to sanction a licensee if the licensee “[c]ontinues in the capacity of or accepts the services of any broker, associate broker, or salesperson who is not properly licensed[.]”

5. Also with respect to a broker, West Virginia Code § 30-40-19(a)(30) authorizes the Commission to sanction a licensee if the licensee “[f]ails to adequately supervise all associate brokers and salespersons employed by him or her[.]”

6. By allowing Respondent Kuhlman to be advertise as a salesperson while her license was expired, Respondent Helmick violated West Virginia Code §§ 30-40-17(a)(5), 30-40-19(a)(23), and 30-40-19(a)(30).

CONSENT

By signing below, each Respondent agrees to the following:

1. Respondents have 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 either Respondent to make this settlement other than as set forth herein. Respondents acknowledge that they may pursue this matter through appropriate administrative proceedings and are aware of their legal rights regarding this matter, but intelligently and voluntarily waive such rights.

2. Respondents acknowledge the Findings of Fact set forth above, admit that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consent to the entry of the following Order:

ORDER

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

1. Respondent Helmick is hereby reprimanded and shall pay a fine in the amount \$1,000.00, payable to the State of West Virginia.

2. Respondent Kuhlman is hereby dismissed from this Complaint.

3. Unless extended in writing by the Commission, the fines shall be paid within thirty (30) days of the entry of this Consent Decree by the Commission. The fines shall be paid by certified check made payable to the State of West Virginia and sent directly to the Commission’s Office.

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 result in further disciplinary action, including, but not limited to, suspension of Respondents’ licenses. The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree. In the event Respondents contest the alleged violation of the Consent Decree, Respondents are entitled to a hearing to challenge the alleged violation. Such hearing shall be scheduled and conducted in accordance with the provisions of W. Va. Code §§ 30-1-8 and 30-40-1 *et seq.* and any procedural rules promulgated by the Commission.

CONSENT DECREE AGREED TO BY:

<small>DocuSigned by:</small>  <small>45597BF9EE4C379...</small> Roxanna L. Helmick, Broker	3/18/2024 Date
<small>DocuSigned by:</small>  <small>01ECAAEE2CBB94C8...</small> Destiny D. Kuhlman, Salesperson	3/18/2024 Date

ENTERED into the records of the Real Estate Commission this:

25 day of March, 2024.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 
Keri L. Ferro, Executive Director