

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

V.

Formal Complaint No. C-24-036

**FRANCIS WESLEY McGUIRE
Licensed Real Estate Broker
License No. WV0019009**

Respondent.

CONSENT DECREE

Respondent Francis Wesley McGuire (“Respondent”) 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 and stipulate 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. Until February 28, 2024, Respondent was a licensed real estate broker in the State of West Virginia, holding license number WV0019009. Respondent’s brokerage was McGuire Realty Co., Inc., located in Huntington, West Virginia.
2. On February 28, 2024, Respondent became the broker for Marcus & Millichap Real Estate Investment Services, Inc., with the license number WVB240300978.
3. On January 30, 2024, the Commission became aware of a listing for a commercial property located at 3558 Main Street, Weirton, West Virginia. That listing contained the name of a

Marcus & Millichap real estate agent who is not licensed to practice real estate in this State. The listing also indicated that Respondent (who was not licensed with Marcus & Millichap at the time) was the listing broker.

4. On February 12, 2024, the Commission became aware of a listing for a commercial property located at Skyline Plaza in Buckhannon, West Virginia. This listing also contained the name of a Marcus & Millichap agent who is not licensed in this State. Respondent was listed as the “broker of record” and McGuire Realty Company, Inc., as the listing brokerage.

5. On February 28, 2024, the Commission initiated the present Formal Complaint against Respondent concerning the two above-referenced listings.

6. On April 4, 2024, Seth M. Mott, Marcus and Millichap First Vice President and Deputy General Counsel, submitted a response to the Complaint on Respondent’s behalf. Among other things, Mr. Mott indicated that the two listings had been removed and corrected.

7. At its regular meeting on May 15, 2024, the Commission considered all of the information received on the matter and determined that there was probable cause to conclude that Respondent’s above-referenced conduct violated the *West Virginia Real Estate License Act*, and authorized the proposal of this Consent Decree to resolve the matter.

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. The *West Virginia Real Estate License Act* does not recognize agreements by West Virginia licensees that purport to allow agents or brokerages not licensed in this State to practice real estate in this State. See W.Va. Code § 30-40-3 (“It is unlawful for any person to engage in directly or indirectly, or to advertise or hold himself or herself out as engaging in or carrying on the business or act in the capacity of a real estate broker, associate broker, or salesperson within this state without first obtaining a license as provided for in this article. Prior to practicing real estate brokerage in this state, a license shall be obtained from the commission even if the person or entity is licensed in another state and is affiliated or otherwise associated with a licensed real estate broker in this state.”)

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

5. West Virginia Code § 30-40-19(a)(35) authorizes the Commission to sanction a licensee if he or she “[l]ends a broker’s license to any person, including a salesperson, or permits a salesperson to operate as a broker[.]”

6. Respondent’s above-referenced conduct while licensed with McGuire Realty Company, Inc., violates West Virginia Code §§ 30-40-19(a)(23) and (35).

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 that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consents to the entry of the following Order:

ORDER

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

1. Respondent shall pay a fine in the amount of \$1,000.00, by check made payable to the State of West Virginia and submitted to the Commission office within 30 days of entry of this Consent Decree.

2. In addition, Respondent shall reimburse the Commission's administrative costs, including attorney fees, in the amount of \$280.00, by check made payable to the State of West Virginia and submitted to the Commission office within 30 days of entry of this Consent Decree.

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 result in further disciplinary action, including, but not limited to, suspension of Respondent's license. The Commission shall immediately notify Respondent via certified mail of the alleged violation of the Consent Decree. In the event Respondent contests the alleged violation of the Consent Decree, Respondent is entitled to a hearing to challenge the alleged violation.

CONSENT DECREE AGREED TO BY:


Francis Wesley McGuire


Date

ENTERED into the records of the Real Estate Commission this:

7th day of June, 2024.

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 
Keri L. Ferro, Executive Director