

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

**WEST VIRGINIA REAL ESTATE COMMISSION,**  
*Complainant,*

**V.**

**Formal Complaint No. C-24-037**

**CHERYL ANN DONOHOE,**  
**Licensed Real Estate Broker**  
**License No. WV0009595**

**and**

**KRYSTLE M. CUNNINGHAM (formerly KRYSTLE BAILEY),**  
**Licensed Real Estate Salesperson**  
**License No. WV0029435**  
*Respondents.*

**CONSENT DECREE**

Respondent Cheryl Ann Donohoe (“Respondent Donohoe”), Respondent Krystle M. Cunningham, formerly Krystle Bailey (“Respondent Cunningham”), 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 Donohoe is a licensed real estate broker in the State of West Virginia, holding license number WV0009595.

2. Respondent Cunningham is a licensed real estate salesperson in the State of West Virginia, holding license number WV0029435. Her license has been on inactive status since April 21, 2024.

3. At all times relevant, Respondent Donohoe served as the broker for Cunningham Realty in Ripley, West Virginia. Respondent Cunningham, at all times relevant, practiced under Respondent Donohoe's supervision as a salesperson in the brokerage.

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

5. Respondent Cunningham 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 December 11, 2023, to reactivate Respondent Cunningham's license.

7. During the period that her license was expired, Respondent Cunningham was advertised as a licensed real estate salesperson and participated in one real estate transaction, representing the buyer of 222 Cedar Lakes Drive, Ripley, West Virginia.

8. On February 28, 2024, the Commission initiated the present complaint against respondents.

9. Through her counsel, Respondent Donohoe submitted a response to the complaint; did not dispute the factual allegations therein; and acknowledged that any violation by Respondent Donohoe was an unintentional oversight.

10. Respondent Cunningham did respond to the Commission's complaint.

11. At its meeting on May 15, 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.

### 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 Cunningham to be advertise as a salesperson and participate in a real estate transaction while her license was expired, Respondent Donohoe violated West Virginia Code §§ 30-40-17(a)(5), 30-40-19(a)(23), and 30-40-19(a)(30).

7. Respondent Cunningham violated West Virginia Code § 30-40-19(a)(23) by continuing in the capacity of a salesperson while not properly licensed to do so.

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

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

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:**

  
\_\_\_\_\_  
Cheryl Ann Donohoe, Broker

5-29-2024  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Krystle M. Cunningham, Salesperson

5/29/2024  
\_\_\_\_\_  
Date

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

7<sup>th</sup> day of June, 2024.

**WEST VIRGINIA REAL ESTATE COMMISSION,**

By:   
**Keri L. Ferro, Executive Director**