

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,  
*Complainant,*

V.

Complaint No. L-10-005

DEBORAH SABO,  
Licensed Real Estate Salesperson  
License No. WV-0027063  
*Respondent.*

FINAL ADMINISTRATIVE ORDER

Upon review of the record in the above-styled matter, the West Virginia Real Estate Commission hereby ADOPTS, in its entirety, the Hearing Examiner's Recommended Decision, dated April 7, 2010, which is attached hereto and incorporated by reference herein. Based on the Hearing Examiner's Findings of Fact and Conclusions of Law, the Commission hereby ORDERS as follows:

1. That the Respondent's license is REVOKED;
2. That the Respondent make restitution in the amount of seventy-thousand dollars (\$70,000.00) to Jarrett Hall, licensed real estate broker. Respondent shall make restitution by check, money order or other means approved by the Commission, and made

payable to Jarrett Hall. Respondent shall submit such payment to the Commission within ninety (90) days of the entry of this Order.

3. That the Respondent reimburse the Commission its administrative costs and legal fees associated with this proceeding, which total Three Thousand Two Hundred Six Dollars and Twenty Five Cents (\$3,206.25). Such payment shall be made within thirty (30) days of entry of this Order.

4. That, in addition to all other requirements as prescribed by law, the Respondent shall not be eligible for reinstatement of licensure until the above restitution and costs are paid in full.

ENTERED this 29<sup>th</sup> day of April, 2010.

WEST VIRGINIA REAL ESTATE COMMISSION

  
\_\_\_\_\_  
John Reed  
Vice-Chairman

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

**WEST VIRGINIA REAL ESTATE COMMISSION,**

**Complainant,**

**v.**

**Complaint No. L-10-005**

**DEBORAH SABO,  
Licensed Real Estate Salesperson  
Licensee No. WV-0027063,**

**Respondent.**

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**HEARING EXAMINER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER**

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This matter comes before the undersigned hearing examiner for hearing on a Notice Of Hearing And Statement Of Charges issued December 4, 2009, against the Respondent Deborah Sabo (hereinafter "Respondent") by Complainant West Virginia Real Estate Commission (hereinafter "Commission").

This matter came on for evidentiary hearing on January 25, 2010. The Complainant Commission appeared by Richard E. Strader, its Executive Director, and by its counsel, Assistant Attorney General Anthony Eates II. The Respondent failed to appear either in person or by counsel.

All witnesses were sworn, documents were received into evidence, the hearing was recorded electronically, and a transcript prepared and distributed to the parties. After a review of the record and exhibits admitted into evidence at the hearing of this matter, after assessing the credibility of all testimony of witnesses of record and weighing the evidence in consideration of the findings as to credibility, and after consideration of the proposed findings of fact and conclusions of law as were filed by the parties, the undersigned hearing examiner makes the following findings of fact, conclusions of law, and proposed order. To the extent that these findings and conclusions are inconsistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are rejected by the hearing examiner.

Conversely, to the extent that these findings and conclusions are generally consistent with any proposed findings of fact and conclusions of law submitted by the parties, the same are accepted and adopted. To the extent that the testimony of any witness is not in accordance with these Findings and Conclusions, such testimony is not credited. Any proposed finding of fact, conclusion of law, or argument proposed or submitted by a party but omitted herein is deemed irrelevant or unnecessary to the determination of the material issues in this matter.

The hearing examiner was and is satisfied that all records and documents entered as exhibits are complete, authentic and valid, and that they were entered with the proper evidentiary foundations. The hearing examiner was and is satisfied that the witnesses brought on by the parties were credible and truthful except as noted below. Neither the demeanor of the witnesses nor the substance of any testimony suggested any inconsistency, conflict, or ulterior motive except as noted below.

#### I. FINDINGS OF FACT

1. The Commission is the state agency created by the provisions of W. Va. Code § 30-40-1, et seq., and is vested with the authority and responsibility to regulate the practice of real estate brokerage in the State of West Virginia.

2. Respondent Deborah Sabo is a licensed real estate salesperson through the Commission, holds Real Estate License No. WV-0027063, and is subject to the Commission's license requirements.

3. During all times relevant herein, Respondent was an employee of J.R. Hall & Associates, Inc., DBA RE/Max Real Estate Professionals ("J.R. Hall"), and her responsible broker was Jarrett Hall. Hearing Transcript ("Tr.") at 12-13. Respondent's duties included managing J.R. Hall's rental property trust accounts and bookkeeping for rental property owners. Tr. at 14.

4. Respondent's duties included accepting each tenant's rent payment and depositing said payment in the appropriate account. After paying bills or for any repairs to the unit, and after deducting a commission, J.R. Hall would send the balance to the property owner. Tr. at 15.

5. Jarrett Hall testified that he wanted Respondent licensed by the Commission due to the fact she was responsible for "handling other people's money." Tr. at 16.

6. In late July 2009, a Commission investigator visited the office of J.R. Hall for the purpose of conducting an audit of the brokerage escrow accounts of that office. The audit was not to include the rental property accounts. However, Mr. Hall's wife (also an employee of J.R. Hall) believed that the said audit would include the rental property trust accounts and therefore directed Respondent to prepare those books for an audit. Tr. at 16-18.

7. Upon being directed to prepare the rental property trust account books for audit, Respondent exited the office by the back door. Mr. Hall's wife attempted without success to contact Respondent that afternoon. Tr. at 19.

8. Respondent contacted the Halls by telephone that evening and asked to meet with them on the morning of the following day, August 1, 2009.

9. Upon meeting with the Halls on that day, Respondent stated that "I have been stealing money from you." Respondent admitted to stealing "about \$25,000." Tr. at 21.

10. Mr. Hall immediately dismissed Respondent from her employment and filed a Formal Complaint against the Respondent with the Commission on August 5, 2009. Complainant's Exhibit 1.

11. Mr. Hall conducted his own review of the J.R. Hall rental property trust account books to determine how Respondent was stealing the money and whether the amount she stated was accurate. Mr. Hall determined that Respondent had requested that tenants pay rent in cash. She would "pocket" the cash and fraudulently note in the books that she had deposited the cash payment into the account. Tr. at 22.

12. Based on Mr. Hall's review of the books, and a review by his son (both of whom are licensed real estate brokers, but neither is an accountant) Mr. Hall determined that Respondent had stolen between \$69,000 - \$70,000. Tr. at 28-29. A review by Dan Powell, CPA, agreed with Mr. Hall's determination. Tr. at 30.

13. In addition to filing the Formal Complaint with the Commission, Mr. Hall contacted the West Virginia State Police. Mr. Hall testified that Respondent was thereafter arrested in October 2009 and subsequently indicted in January 2010. Tr. at 31.

14. After receiving Mr. Hall's Formal Complaint (Complainant's Exhibit 1), the Commission thereafter issued the Notice Of Hearing And Statement Of Charges in this matter.

15. The Notice Of Hearing And Statement Of Charges was sent by the Attorney General's office to Respondent's last-known address by Certified Mail, Return Receipt Requested, on December 4, 2009. The United States Post Office attempted delivery of the said Notice and Statement of Charges to Respondent on three occasions (December 8, 16 and 23, 2009) before returning the said document as unclaimed. See Complainant's Exhibit 2. On or about January 5, 2010, the Attorney General's Office sent the said document to Respondent's last-known address by regular mail.

16. Respondent failed to respond to the said Notice Of Hearing And Statement Of Charges, and failed to appear in person or by counsel at the evidentiary hearing of this matter on January 25, 2010.

## II. CONCLUSIONS OF LAW

1. Pursuant to the provisions of W. Va. Code § 30-40-1, *et seq.*, the Commission is vested with the authority and responsibility to regulate real estate brokers and salespersons in the State of West Virginia.

2. Pursuant to the provisions of W. Va. Code § 30-40-19(a)(8), the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee "[f]ails, within a reasonable time, to account for or remit moneys or other assets coming into his or her possession, which belongs to others."

3. In addition, the provisions of 174 W.Va. C.S.R.1 §16.2 provide that:

Every real estate salesperson and associate broker who receives any trust funds shall immediately, or at the first opportunity, pay over or deliver the trust funds to the broker, under whom he or she is registered as a salesperson or associate broker. No real estate salesperson or associate broker shall collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of and with the consent of the licensed real estate broker under whom he or she is licensed. Upon receipt of any trust money, the salesperson or associate broker shall immediately turn it over to his or her employing broker. The Commission will consider the failure of a salesperson or an associate broker to comply with this rule to be a violation of W.Va. Code § 30-40-1 et seq.

4. Pursuant to the provisions of W. Va. Code § 30-40-19(a)(8), the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee “[c]ommingles moneys belonging to others with his or her own funds.”

5. By embezzling moneys from the rental trust account of J.R. Hall, her employer, and converting those moneys to her own use, Respondent violated the provisions of W. Va. Code § 30-40-19(a)(8) and (9), as well as the provisions of 174 W.Va. C.S.R.1 §16.2.

6. Pursuant to the provisions of W. Va. Code § 30-40-19(a)(22), the Commission has the authority to 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 on the word, representation or conduct of the licensee.”

7. Respondent’s embezzlement from her employer’s rental department trust accounts constitutes a material fraud, misrepresentation, concealment, conspiracy, collusion, trick or scheme to defraud J.R. Hall, and its rental property owners from monies due them. As the Respondent was responsible for managing the accounts, , J.R. Hall, and the property owners relied upon her to properly manage the fund. Her embezzlement therefore violated the provisions of W. Va. Code § 30-40-19(a)(22).

8. Pursuant to the provisions of W. Va. Code § 30-40-19(a)(37), the Commission has the authority to revoke, suspend or otherwise discipline 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.”

9. Respondent’s embezzlement from her employer’s rental property trust fund constitutes bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing, in violation of the provisions of W. Va. Code § 30-40-19(a)(37).

10. Pursuant to the provisions of W. Va. Code § 30-40-19(a)(19), the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee “[v]iolates any of the provisions of this article, any rule or any order or final decision of the Commission.”

11. Pursuant to the provisions of W. Va. Code § 30-40-20(c) the accused party in a complaint shall file an answer within twenty (20) days of receipt of the complaint, and failure to do so may be considered an admission.

12. Respondent's failure to answer the Notice Of Hearing And Statement Of Charges issued December 4, 2009, constitutes a violation of the provisions of W. Va. Code § 30-40-19(a)19 and § 30-40-20(c).


### III. RECOMMENDED ORDER

It is recommended as follows as to the Notice Of Hearing And Statement Of Charges issued December 4, 2009, against Respondent Deborah Sabo.

1. That it be found that the allegations relating to the above-referenced alleged violations of law and regulation by the Respondent Deborah Sabo have been proven by a preponderance of the evidence adduced at hearing and that any contest of the said Respondent thereto be DENIED; and,

2. That the West Virginia Real Estate Commission find that Respondent Deborah Sabo engaged in the above-referenced violations of law and regulation and REVOKE the real estate salesperson license of the said Deborah Sabo.

RECOMMENDED THIS 7<sup>th</sup> DAY OF april, 2010.

  
\_\_\_\_\_  
JACK C. MCCLUNG  
HEARING EXAMINER





**State of West Virginia  
Real Estate Commission**

300 Capitol Street, Suite 400  
Charleston, West Virginia 25301  
(304) 558-3555  
FAX (304) 558-6442  
<www.wvrec.org>

JOHN H. REED, III, VICE CHAIRMAN  
HURRICANE  
CAROL H. PUGH, SECRETARY  
BECKLEY  
VAUGHN L. KIGER  
MORGANTOWN

ROBERT R. VITELLO  
CHARLESTON  
JERRY D. ZAFERATOS  
BECKLEY  
RICHARD E. STRADER, CPA  
EXECUTIVE DIRECTOR

April 30, 2010

Deborah Sabo  
21 Bayberry Terrace  
Morgantown, WV 26508

VIA Certified Mail:  
7005 1160 0002 7940 3696

RE: Complaint # L-10-005

Dear Ms. Sabo:

Enclosed please find a certified copy of the Final Administrative Order, in the above referenced matter, which was entered into the records of the Real Estate Commission on April 29, 2010.

Your salesperson license has been revoked. You are hereby notified that you may seek judicial review of this Decision and Final Order under the provisions of Chapter 30, Article 40, Section 21, Chapter 30, Article 1, Section 9, of the West Virginia code or under other applicable provisions of law.

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Strader".

Richard E. Strader  
Executive Director

cc w/enc: Jarrett R. Hall



RECEIVED

AUG - 5 2009

W.VA. REAL ESTATE COMMISSION

JOHN H. REED, III, VICE CHAIRMAN HURRICANE

State of West Virginia REAL ESTATE COMMISSION

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RICHARD E. STRADER, CPA EXECUTIVE DIRECTOR

FORMAL COMPLAINT

L-10-005

Instructions:

Please type or print clearly in black pen or ink only on the front side of each page. Complete all applicable sections of this form fully and accurately. Attach legible copies of contracts and all other documents relating to your complaint. Please do not use a "Highlighter" on any of the documents you submit with your complaint due to the fact these marks do not copy well. You should provide all information which you know or can discover with reasonable investigation. If you wish to file affidavits from persons who have personal knowledge of the facts and circumstances involved in this complaint, the affidavits must be verified before a Notary Public in order to be admissible. For assistance in completing or submitting this Complaint, contact the Real Estate Commission. If more space is needed, attach extra sheets.

Please note:

The Real Estate Commission regulates real estate licensees. The Commission is not empowered to enforce, interpret, modify, rescind or cancel listing agreements, purchase and sale agreements or any other contract, or to order the return of earnest money, award damages, settle real estate commission fee disputes or otherwise settle claims. If a licensee is found guilty of a violation of the Real Estate License Act or Legislative Rule, the Commission has authority to take disciplinary action against that licensee. The Real Estate Commission cannot provide private legal advice or services.

I. PLAINTIFF(S) INFORMATION

Name(s): J. R. Hall & Associates, Inc. DBA RE/MAX Real Estate Professionals, Jarrett Hall, Broker
Address: 709 Beechurst Avenue, Suite 24, Morgantown, WV 26505
Telephone: 304-292-3900 (Home) 304-599-2291 (Work) 304-692-7500 Cell
Occupation(s): Real Estate Brokerage

II. LICENSEE(S) INFORMATION

1. Name Deborah Sue Sabo
license type: Broker Associate Broker X Salesperson Don't Know
Firm Name Real Estate Professionals Employed by J. R. Hall & Associates, Inc.
Address P.O.Box 413, Rivesville, WV 26588 & 21 Bayberry Terrace, Morgantown, WV 26508
Telephone 304-278-7011/304-292-5646 Responsible Broker Jarrett R. Hall
2. Name
license type Broker Associate Broker Salesperson Don't Know
Firm Name
Address
Telephone Responsible Broker

III. GENERAL INFORMATION ABOUT COMPLAINT

1. Type of real estate transaction: (check one)

Residential  Commercial  Industrial  Timeshare  Unimproved Land  Lease Option  
 Other (describe) \_\_\_\_\_

2. Date(s) of transaction(s): 8/1/09 and before

3. Other pertinent information: Deborah was licensed with our referral company, Real Estate Professionals a sole proprietorship, but was an employee with J. R. Hall and Associates, Inc as a clerical property manager and handled the bookkeeping for the Rental Department.

She embezzled more than \$30,000 from monies held in trust for our rental property owners.

4. (I  have/  have not) contacted the persons complained about and attempted to resolve this matter.

Person and dates contacted:

Met with Deborah Sabo on Saturday, August 1, 2009 at 9:00 AM at our office. At that time she confessed to taking money from February 2008 to the present. We took her keys and dismissed her immediately.

Results: At the present time, no attempt has been made to pay any monies back. This investigation is ongoing at the present time.

5. (I  have/  have not) retained an attorney to assist me in resolving this matter.

Attorney's name \_\_\_\_\_ Telephone \_\_\_\_\_

Attorney's address \_\_\_\_\_

May we contact your attorney about this matter? \_\_\_\_\_

6. List the names of all other agencies and associations with whom you already have or intend to file a complaint:

West Virginia Real Estate Commission

West Virginia State Police

7. This complaint involves the same or related matters which are the subject of a civil lawsuit which (check one)

has been completed  has been filed in a court of law  may be filed in a court  
 will be filed in a court of law  don't know

Court name Unknown at this time Case # \_\_\_\_\_

Court address \_\_\_\_\_

Type of action \_\_\_\_\_

Case status \_\_\_\_\_



10. (  am/  am not ) willing to appear under oath as a witness to cross examination concerning the allegations made in this complaint. (The Complainant's unwillingness to testify may be the basis for the Commission dismissing the Complaint after its investigation and preliminary consideration.) If you are not willing to testify, state reasons:

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11. Attach clear copies of **ALL** pertinent documents and papers which directly or indirectly relate to this Complaint.


#### IV. VERIFICATION OF COMPLAINT

I understand a copy of this Complaint, including any and all documents, may be given to any person or firm against whom I have complained and any other regulatory agency which may have an interest in the information contained herein.

I (we), the Plaintiff(s), hereby certify that all the information submitted herein is true and correct to the best of my(our) knowledge and belief.

Dated this 3rd day of August, 2009

Plaintiff(s)  
Signature(s):

 BROKER

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NONTRANSFERABLE

2009-2010

ORIGINAL

# State of West Virginia Real Estate Commission

3315

DEBORAH SUE SABO  
C/O JARRETT RAYNER HALL

WV0027023  
001890-00  
07/09/2008

## Real Estate Salesperson

*is duly authorized to act under the direct supervision of the broker stated herein until June 30, 2010, unless this license is sooner Revoked, Cancelled or Withdrawn.*

*In Witness Whereof, the West Virginia Real Estate Commission, by virtue of the authority vested in it by Chapter 30, Article 40, Code of West Virginia, has caused this License Certificate to be issued.*



WEST VIRGINIA REAL ESTATE COMMISSION

*John H. Reed III*  
John H Reed III, Vice-Chairman

*Carol H. Pugh*  
Carol H. Pugh, Secretary

Broker's Signature

*[Signature]*

Date Cancelled

*8/1/09*