

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

Formal Complaint No. L-14-007

**CHARLES WILSON,
Licensed Salesperson,
License No. WV-0012739**

Respondent.

CONSENT DECREE

The Respondent, Charles Wilson (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 that has been filed against Respondent. 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 salesperson licensed by the Commission, holding license number WV-0012739 and working under Broker Craig Allison of Property Elite, LLC.

3. On November 28, 2011, Respondent and another person signed an offer to purchase real estate located at 834 Chappell Heights through a salesperson with Old Colony Realtors.

4. R. Joseph Miller is the responsible broker for Old Colony Realty, who filed this complaint.

5. The real estate that is the subject of this complaint was foreclosure property handled by HomeSteps, an REO company.

6. Respondent's offer was accepted by HomeSteps and, at the time of the offer, Respondent sought permission to make improvements prior to closing, which was denied.

7. By addendum to the purchase agreement, the closing was to be by December 31, 2011, but time was not of the essence and did not take place by that date due to illnesses in Respondent's family and funding difficulties.

8. During the winter of 2012, both Old Colony Realty and HomeSteps confirmed that, despite representations to the contrary, Respondent was occupying the property and had made repairs and improvements.

9. At the request of Old Colony Realty, Respondent returned the keys without disclosing that he had rekeyed the premises.

10. Respondent was unable to close on the property and defaulted on the contract, forfeiting all improvements he had made to the property.

11. However, Respondent, as a licensed salesperson, had an obligation to abide by the provisions of the purchase agreement, to honor the denial of his request to make improvements prior to closing, and to not make blatant and repeated misrepresentations regarding his occupancy of the premises.

12. This complaint was received by the Commission on August 15, 2013, and served upon Respondent.

13. The Commission received a response from Respondent on September 26, 2013, which tacitly admitted the allegations of the complaint, stating only that the Kanawha Valley Board of Realtors had already addressed the facts giving rise to this Complaint and that he had made a sincere effort to meet the Board of Realtors' requirements.

14. Based on the response received, the Commission found probable cause to proceed against Respondent at its meeting on October 17, 2013.

15. The parties have agreed to settle the Complaint informally through the entry of this Consent Decree.

16. The Commission has incurred expenses in the prosecution of this complaint in an amount in excess of \$390.00, which expenses relate solely to the Commission's legal expenses and do not include costs reflecting time expended by Commission staff and other expenses incurred by the Commission.

Conclusions of Law

1. West Virginia Code § 30-40-1 *et seq.*, vests the Commission with the authority and responsibility to regulate real estate brokers, associate brokers and salespersons in the State of West Virginia.

2. West Virginia Code § 30-40-7(l) gives the Commission all the discretionary power to "impose one or more sanctions as considered appropriate in the circumstances for the discipline of a licensee. Available sanctions include, but are not limited to, denial of a license or renewal thereof, administrative fine not to exceed one thousand dollars per day per violation, probation,

revocation, suspension, restitution, require additional education, censure, denial of future license, downgrade of license, reprimand or order the return of compensation collected from an injured consumer.”

3. Pursuant to W. Va. Code § 30-40-19(a)(2), the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee “[m]akes any substantial misrepresentation.”

4. Respondent’s statements that he was not occupying or making repairs or improvements to the property prior to closing were substantial misrepresentations in violation of W. Va. Code § 30-40-19(a)(2).

5. Pursuant to W. Va. Code § 30-40-19(a)(3), the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee “[m]akes any false promises or representations of a character likely to influence, persuade or induce a person involved in a real estate transaction.”

6. Respondent’s substantial misrepresentations in violation of W. Va. Code § 30-40-19(a)(2) were also false promises or representations influenced, persuaded or induced others involved in the real estate transaction to trust that the property was awaiting closing when it was being occupied and altered, in violation of W. Va. Code § 30-40-19(a)(3).

7. West Virginia Code § 30-40-19(a)(22) provides that the Commission may 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 upon the word, representation or conduct of the licensee.”

8. Respondent's representations which constitute violations of § 30-40-19(a)(2) & (3), as well as his return of the keys without disclosing that he had rekeyed the premises, are evidence of a material fraud, misrepresentation, concealment, trick, scheme or other device committed by Respondent licensee which was relied upon by Old Colony Realty and HomeSteps, in violation of W. Va. Code § 30-40-19(a)(22).

9. West Virginia Code § 30-40-19(a)(37) provides that the Commission may revoke, suspend or impose any other sanction against 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."

10. Respondent's representations which constitute violations of § 30-40-19(a)(2), (3) & (22) also constitute or demonstrate bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing in violation of W. Va. Code § 30-40-19(a)(37).

11. The Commission may assess administrative costs, which shall be placed in the account of the Commission. 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's license is hereby **SUSPENDED** for a period of one (1) year. The suspension shall be stayed after thirty (30) days from the date of entry of this Consent Decree, provided that Respondent has paid the administrative costs set forth in Paragraph 4 below.

2. In the event the suspension is stayed, Respondent shall be placed on probation for an additional sixty (60) days, after which time the Respondent shall have complied with the following terms and conditions:

A. Within 90 days of the entry of this Consent Decree, Respondent shall complete a seven (7) hour continuing education course in the area of "Agency" in a class-room setting, which course shall be in addition to the regular continuing education requirements, after which Respondent shall submit documentation to the Commission demonstrating successful completion of the course; and

B. Within sixty (60) days of the entry of this Consent Decree, Respondent shall pay a fine in the amount of one thousand dollars (\$1,000.00). Payment shall be made by certified check or money order payable to the State of West Virginia and sent directly to the offices of the Commission.

3. Failure to comply with the terms and conditions set forth in Paragraphs 1 or 2 above will result in the automatic imposition of the one-year suspension.

4. Within thirty (30) days of the entry of this Consent Decree, Respondent shall pay the Commission's costs in this matter in the amount of three hundred ninety dollars (\$390.00). Payment shall be made by certified check or money order payable to the State of West Virginia and sent directly to the offices of the Commission.

5. 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 not only in the summary suspension of Respondent's license agreed to herein but, upon action by the Commission, additional disciplinary action.

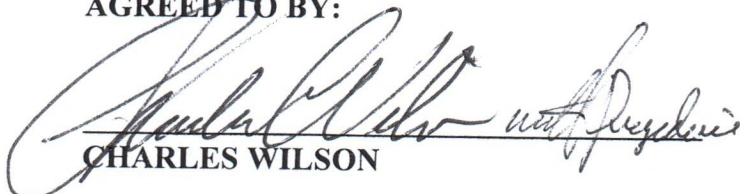
In the event of Respondent's failure to comply with any of the terms and conditions agreed to herein, the Commission shall immediately notify Respondent via certified mail of non-compliance and the consequent summary suspension of Respondent's license.

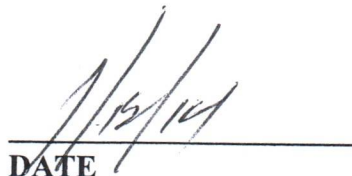
Respondent may request probationary reinstatement of the license through execution of a new Consent decree which may contain different or additional terms. The Commission is not bound to comply with Respondent's request for probationary reinstatement.

Respondent may appeal the summary suspension of Respondent's license by requesting a hearing on the summary suspension. 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 Consent Decree, which is an Order of the Commission.

AGREED TO BY:


CHARLES WILSON

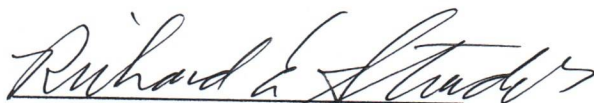

DATE

ENTERED into the records of the Real Estate Commission this:

3rd day of February 2014
2013.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:



RICHARD E. STRADER,
EXECUTIVE DIRECTOR

