

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Formal Complaint No. L-24-009

DAVID EUGENE CHINN, JR.
Licensed Real Estate Broker
License No. WVB220300875
Respondent.

CONSENT DECREE

Respondent David Eugene Chinn, Jr. ("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. Respondent is a licensed real estate broker in the State of West Virginia, holding license number WVB220300875.
2. At all times relevant, Respondent served as the broker for Altruist Realty Group in Beckley, West Virginia.
3. On August 30, 2023, the Commission received a Formal Complaint filed by Kenneth Bryant against Respondent. Mr. Bryant is a licensed real estate broker in this State.
4. Mr. Bryant's complaint, in part, concerned the Notice of Agency Relationship form accompanying an offer submitted by one of Respondent's agents on behalf of Respondent's client to

purchase real estate located at 1674 Cook Parkway, Occana, West Virginia. Specifically, the Notice of Agency Relationship form was not timely furnished to the seller's agent.

5. In response to the complaint, Respondent, via counsel, denied all alleged violations in Mr. Bryant's complaint.

6. At its regular meeting on December 13, 2023, the Commission considered all of the information received on the matter and determined that there was probable cause to conclude that Respondent's conduct with respect to the timely submission of the Notice of Agency Relationship Form violated the *West Virginia Real Estate License Act* and authorized the proposal of this Consent Decree to resolve the complaint.

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(1) 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 he or she "[v]iolates any provision of this article, any rule, or any order or final decision issued by the commission[.]"

4. The Commission's Legislative Rule requires as follows:

16.1. Agency form required. -- The notice of agency relationship and consent form prescribed by the Commission discloses the party or parties the licensee is representing to all parties to the real estate transaction. A notice of agency relationship and consent form shall be signed by the licensee and the client at the time the agency relationship is created. Prior to the initiation of negotiations, each licensee's agency form shall be signed by all parties. The broker shall provide a copy to each person executing an agency form and shall maintain a copy of each signed form in the transaction file. All members of a team must be listed on or attached to any Notice of Agency Relationship form signed by a team member.

W.Va. Code R. § 174-1-16.1.

5. There is probable cause to conclude that Respondent's conduct with respect to the Notice of Agency Relationship Form violates the above-quoted rule.

6. There is no probable cause to conclude that the remaining allegations in the Formal Complaint violate any provision of the *Real Estate License Act*.

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 are aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent acknowledges the Findings of Fact and Conclusions of Law set forth above and consents to the entry of the following Order:

ORDER

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

1. Within six months of the entry of this Consent Decree, Respondent shall complete three (3) hours of continuing education on the subject of agency. However, Respondent shall be permitted to use the course that he completed in compliance with the Consent Decree entered in Formal Complaint L-24-002 to also comply with the present Consent Decree. Thus, upon entry of this Consent Decree, no further action is required of Respondent.

2. 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, he is entitled to a hearing to challenge the alleged violation.

CONSENT DECREE AGREED TO BY:



DAVID EUGENE CHINN, JR.

1-4-24

Date

ENTERED into the records of the Real Estate Commission this:

___18___ day of _____ **JANUARY** . 2024.

WEST VIRGINIA REAL ESTATE COMMISSION,

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