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TO: ALL WEST VIRGINIA LICENSED REAL ESTATE BROKERS

FROM: KERI L. FERRO, EXECUTIVE DIRECTOR

DATE: 5/01/2023

RE: LICENSE LENDING TO UNLICENSED AGENTS

A recurring issue has come to the Commission's attention that warrants the issuance of this Memorandum. Recently, the Commission has learned of several instances in which West Virginia properties are advertised for sale with a West Virginia broker noted as the "broker of record." However, the advertisements also contain the name and contact information of one or more real estate agents who hold no West Virginia real estate license. The advertisements give the public the impression that these agents are practicing under the supervision of the West Virginia broker, which is untrue. The advertisements also make it clear that the properties are actually being listed and marketed by agents and brokerages not licensed by the Commission, or even registered to do business in this State.

Additionally, and perhaps most importantly, the agreement between the West Virginia broker and the unlicensed agent often requires the West Virginia broker to direct any inquiries about the property to the unlicensed agent, who maintains the responsibility to market the property for sale; handle all negotiations and site visits; and complete all purchase agreements necessary for the transaction. For his or her role in the process, the West Virginia broker retains a set percentage of the gross commission and the remainder is paid to the unlicensed agent.

The parties to such agreements appear to believe that by simply enlisting the name of a West Virginia broker to be the "broker of record," the advertisement and transaction comply with the *West Virginia Real Estate License Act*. That belief is incorrect. The purpose of this Memorandum is to advise all West Virginia brokers that the arrangement described above not only violates the Commission's advertising regulations, but also is a clear example of license lending, which renders your license subject to discipline by the Commission.

It is the Commission's hope that by issuing this Memorandum, all West Virginia brokers will avoid the license lending arrangements described above. As always, if you have questions, please do not hesitate to contact the Commission office.