

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

**Consolidated Complaint Nos. P-14-015
P-14-016
P-14-019**

**STANLEY P. NORMAN
Licensed Real Estate Broker # WV-0014263,**

Respondent.

CONSENT DECREE

Now comes the Respondent, Stanley P. Norman (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Richard E. Strader, its Executive Director, for the purpose of resolving three complaints filed against Respondent by third parties for which the Commission found probable cause to proceed in the name of the Commission. 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 these complaints, which have been consolidated into one matter. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Commission is a state entity created by W. Va. Code § 30-40-1 *et seq.*, and is authorized to regulate the conduct of real estate brokers, associate brokers and salespersons.
2. Respondent is a broker licensed by the Commission, holding license number WV-0014263, who owned and operated the brokerage SPNCO, Inc., until requesting cancellation of that

license effective April 24, 2012 and currently operating through Real Estate Service Group LLC, which was licensed by the Commission on July 1, 2011.

3. In the latter part of 2013, three complaints were filed by members of the public, alleging, among other things, the following:

- a. On October 14, 2013, Janet M. Harris filed P-14-015 setting forth various matters regarding a working relationship between Ms. Harris and Respondent, which included allegations of substantial amounts loaned to Respondent by Ms. Harris which remain, for the most part, unpaid, and also allegations regarding financial irregularities in connection with Ms. Harris' employment with Respondent's brokerage.
- b. On October 23, 2013, three entities, by counsel, filed P-14-016, alleging a business relationship with Respondent and investments in Respondent's company, DLN, LLC, through substantial payments on November 10, 2009, to SPNCO Inc.'s trust account pursuant to an agreement signed on that date. Complaint P-14-016 further alleges that DLN LLC's corporate charter was revoked on November 1, 2010, which was not disclosed to the complainants; that Respondent continued to advertise to the public the business conducted by SPNCO after its dissolution; and, on information and belief, that complainants' funds in the SPNCO trust account were removed and used for purposes other than those expressly set forth in the November 10, 2009, agreement.
- c. On December 2, 2013, John R. Howerton filed P-14-019, alleging that in July of 2013 Mr. Howerton tendered a substantial sum to be held in trust in connection with an offer on property for a proposed building site in Beckley, which offer was rejected but the earnest deposit not returned. Rather, it is alleged that Respondent converted the funds to his personal use, later writing a check for the amount which was returned for insufficient funds, and this earnest money has not been returned to Mr. Howerton to date.

4. Upon receipt of each complaint, the Commission served the complaint upon Respondent and received a timely response by counsel essentially admitting in whole or in part the non-payment of moneys currently due and owing each complainant.

5. At its meeting on February 19, 2014, the Commission found probable cause to proceed against Respondent on each of the complaints and consolidated them into one Formal Complaint being brought in the name of the Commission.

6. As reflected in the Order Suspending Respondent's Real Estate Broker's License entered by the Commission Chairman on February 26, 2014, at its meeting on February 19, 2014, the Commission also voted to suspend Respondent's broker's license during the pendency of these complaints, finding that such action is necessary to protect the public.

7. Respondent subsequently filed for Chapter 11 bankruptcy currently pending in the United States Bankruptcy Court for the Southern District of West Virginia, at which time his bankruptcy counsel was substituted for the counsel filing the responses on Respondent's behalf.

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

9. The Commission has incurred expenses in the prosecution of this complaint in an amount in excess of \$1,000.00, 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. West Virginia Code § 30-40-19(a)(8) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if he or she “[f]ails, within a reasonable time, to account for or to remit moneys or other assets coming into his or her possession, which belongs to others.”

4. Respondent’s failure to timely pay over moneys in his trust account, as alleged in P-14-016 and P-14-019, to which Respondent admitted, did not comply with the legal requirement to remit moneys in a licensee’s possession which belong to others within a reasonable time, in violation of West Virginia Code § 30-40-19(a)(8).

5. West Virginia Code § 30-40-19(a)(9) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if he or she “[c]ommingles moneys belonging to others with his or her own funds.”

6. Commission Rule 174 CSR 1 § 17 defines commingling to include “failure to deposit or place trust funds received in: (1) a neutral escrow depository or (2) the hands of principals or (3) a trust fund account by the next business day following receipt.”

7. Respondent’s removal of moneys from his trust account for his personal use, as alleged in P-14-016 and P-14-019, to which Respondent admitted, constituted the commingling of funds, as defined in Commission Rule 174 CSR 1 § 17, in violation of West Virginia Code § 30-40-19(a)(9).

8. West Virginia Code § 30-40-19(a)(37) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if he or she “[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 conduct with regard to matters set forth in all the complaints, to which Respondent has admitted, violate West Virginia Code § 30-40-19(a)(37) and render the Respondent’s license subject to discipline by the Commission.

10. The above violations render the Respondent’s license subject to discipline by the Commission.

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 is represented by 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 consents to the findings above and 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 **REVOKED**.

2. Respondent shall pay a fine in the amount of \$500.00 for the violations of West Virginia Code §§ 30-40-19(a)(8), (9) and (37).
3. Respondent agrees to pay the Commission's costs in this matter in the amount of One Thousand Dollars (\$1,000.00).
4. The payments agreed to herein totaling Fifteen Hundred Dollars (\$1,500.00) may be made in installments of \$250.00 or more, the first payment to be made within 30 days of the entry of this Consent Decree, and an additional payment of at least \$250.00 to be made no later than the 15th day of each succeeding month until the balance is paid in full, which shall be on or before March 1, 2015.
5. All payments shall be by certified check or money order made payable to the State of West Virginia and sent directly to the Commission Office.
6. Respondent is ineligible for applying for a license until after the expiration of two years from the date of revocation as evidenced by the entry date of this Consent Decree pursuant to West Virginia Code § 30-1-21(f) and is ineligible thereafter unless and until he has complied with all the terms of this Consent Decree.
7. 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, upon action by the Commission, result in further action of the Commission, including the filing of criminal charges.

AGREED TO BY:


STANLEY P. NORMAN


DATE

ENTERED into the records of the Real Estate Commission this:

23rd day of September, 2014.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:



RICHARD E. STRADER,
EXECUTIVE DIRECTOR

