

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

*Complainant,*

v.

Complaint No. P-15-010

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**AMBER ELIZABETH MOUSER**  
Licensed Real Estate Salesperson # WV-0026387,

**CHARESSA WILKINSON**  
Licensed Real Estate Salesperson # WV-0028900,

*Respondents.*

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**CONSENT DECREE**

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Now comes the Respondents, Amber Elizabeth Mouser (hereinafter "Respondent Mouser") and Charessa Wilkinson ("Respondent Wilkinson") and the West Virginia Real Estate Commission (hereinafter "Commission"), by Richard E. Strader, its Executive Director, for the purpose of resolving a complaint filed against them by Bryan and Pamela McElvogue ("Complainants" or "Complainant Buyers"). As reflected in this Consent Decree, the parties have reached an agreement in which Respondents agree and stipulate to the Findings of Fact and Conclusions of Law set forth in this Consent Decree concerning the proper disposition of this complaint. 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 West Virginia Code § 30-40-1 *et seq.*, and is authorized to regulate the conduct of real estate brokers, associate brokers and salespersons.

offer, which acceptance was communicated via email from Respondent Mouser to Complainant Buyers' agent, who agreed to start the paperwork with Respondent Mouser's acquiescence.

- b. After several texts between the Complainant Buyers' and Sellers' agents, Respondent Mouser received the paperwork signed by Complainant Buyers, who at that point thought "it was a done deal ..." even though Respondent Wilkinson had informed Complainant Buyers' agent that she could not get the paperwork to the Seller until the next day.
- c. Respondents represent that Respondent Mouser had not communicated to Respondent Wilkinson that the Complainant Buyers and Sellers had agreed on a price -- that she had called her, but had not left a message.
- d. Respondent Wilkinson showed the property to a third party the morning of the next day, who made a higher offer.
- e. Respondents presented both offers to Sellers that afternoon, and Sellers accepted the higher, later offer.
- f. Broker Mangus was notified of the situation by both Respondents and Complainant's agents, who consulted with other professionals and suggested that, since there had been only a verbal and not a signed agreement between Sellers and Complainant Buyer, that both buyers submit their highest and best offers in writing by a stated time.
- g. Complainants declined to make another offer and filed the instant complaint.

11. With regard to the sale of the property, the Commission finds that Respondents failed to reduce a bona fide offer to writing and engaged in action or conduct which constituted or demonstrated incompetence and improper dealing.

12. With regard to the unregistered business name, the Commission finds that Respondents used and advertised property under the name "Sold Sisters" and not in a name registered by their employing broker.

13. The Commission finds that Respondents' advertising under the unregistered name "Sold Sisters" falsely represents the name of their employing brokerage and misleads the public.

6. West Virginia Code R. § 174-1-9.2 states that salespersons may not advertise any property under their own names and that all advertising by a salesperson must be under the direct supervision of and in the name of the employing broker.

7. Inasmuch as Respondents did business and advertised as “Sold Sisters,” which was Respondents’ own name which was not registered with the Commission or associated with their broker, Respondents violated West Virginia Code § 30-40-19(a)(4) and (5) and West Virginia Code R. § 174-1-9.2.

8. Respondents’ conduct, which was found to have violated one or more of the provisions of the West Virginia Code as set forth above, renders the Respondents’ licenses subject to discipline by the Commission.

9. The Commission may assess administrative costs. West Virginia Code § 30-40-21(g). Costs shall be placed in the account of the Commission, and any fine shall be deposited in the state treasury’s general revenue account. West Virginia Code § 30-1-8(a).

### **CONSENT**

By signing below, Respondents agree to the following:

1. Respondents are represented by counsel and execute 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 Respondents to make this settlement other than as set forth herein. Each Respondent acknowledges that she may pursue this matter through appropriate administrative proceedings and is aware of her legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondents consent to the findings above and to the entry of the following Order:

The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree and the summary suspension of one or both licenses. Either or both Respondents may request probationary reinstatement of their license through renewal of this Consent Decree or execution of a new Consent Decree which may contain different or additional terms. The Commission is not bound to comply with either Respondent's request for probationary reinstatement.

In the event either or both Respondents contest the allegations of violation of the Consent Decree resulting in the suspension of their license, she or they may request a hearing to seek reinstatement of same. Any such hearing shall be scheduled and conducted in accordance with the provisions of W. Va. Code §§ 30-1-8 and 30-40-1 *et seq.* and the procedural rules of 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 Respondents based upon their violation of this Order of the Commission.

**AGREED TO BY:**

  
**AMBER ELIZABETH MOUSER**

February 27, 2015  
**DATE**

  
**CHARESSA WILKINSON**

February 27, 2015  
**DATE**

**ENTERED into the records of the Real Estate Commission this:**

**\_\_\_\_\_ day of \_\_\_\_\_, 2015.**

**WEST VIRGINIA REAL ESTATE COMMISSION,**

**By:**

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**RICHARD E. STRADER,  
EXECUTIVE DIRECTOR**