

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

**WEST VIRGINIA REAL ESTATE COMMISSION,
*Complainant,***

V.

Formal Complaint No. C-22-018

**ERNEST R. HUETER,
Licensed Real Estate Broker
License No. WV0026328**

and

**BRIAN E. FINKELSTEIN,
Licensed Real Estate Salesperson
License No. WV0029657
*Respondents.***

CONSENT DECREE

Respondent Ernest R. Hueter ("Respondent Hueter"), Respondent Brian E. Finkelstein ("Respondent Finkelstein"), 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 in which each Respondent agrees and stipulates 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 Hueter is a licensed real estate broker in the State of West Virginia, holding license number WV-0026328.
2. Respondent Finkelstein is a licensed real estate salesperson in the State of West Virginia, holding license number WV-0029657.

3. At all times relevant, Respondent Hueter served as the responsible broker for Respondent Finkelstein at KLN B, LLC KLN B Retail, located in Towson, Maryland.

4. Real estate licenses must be renewed annually, on or before June 30.

5. Respondent Finkelstein failed to properly renew his license on active status on or before June 30, 2021 for the 2022 licensure year. Thus, his license expired on July 1, 2021, and, remained on expired status until August 31, 2021 when the license was renewed on active status.

6. The Commission requested that respondents submit information for any listings and sales that Respondent Finkelstein handled during the period that his license was expired. Respondent Hueter submitted a list of transactions that Respondent Finkelstein handled as a real estate salesperson during the period his license was expired.

7. On September 28, 2021, the Commission initiated the present complaint against respondents.

8. Respondents submitted written responses to the Commission on October 21, 2021. Respondents each acknowledged that Respondent Finkelstein's failure to timely renew his license was an oversight.

9. At its regularly-scheduled meeting on December 15, 2021, the Commission determined there was probable cause to conclude that both respondents violated the *West Virginia Real Estate License Act*, but authorized the proposal of a consent decree to informally resolve the matter.

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(l) 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 the licensee “[v]iolates any of the provisions of the *West Virginia Real Estate License Act*], any rule or order or final decision issued by the commission.” West Virginia Code § 30-40-17(a)(5) mandates that a real estate broker “[m]aintain in his or her custody and control the license of each associate broker and salesperson employed by him or her[.]”

4. West Virginia Code § 30-40-19(a)(23) authorizes the Commission to sanction a licensee if the licensee “[c]ontinues in the capacity of or accepts the services of any broker, associate broker, or salesperson who is not properly licensed[.]”

5. Also with respect to a broker, West Virginia Code § 30-40-19(a)(30) authorizes the Commission to sanction a licensee if the licensee “[f]ails to adequately supervise all associate brokers and salespersons employed by him or her[.]”

6. By allowing Respondent Finklestein to practice real estate while his license was expired, Respondent Hueter violated West Virginia Code §§ 30-40-17(a)(5), 30-40-19(a)(23), and 30-40-19(a)(30).

7. Respondent Finkelstein violated West Virginia Code § 30-40-19(a)(23) by continuing in the capacity of a salesperson while not properly licensed to do so.

CONSENT

By signing below, each Respondent agrees to the following:

1. Respondents have 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 either Respondent to make this settlement other than as set forth herein. Respondents acknowledge that they may pursue this matter through appropriate administrative proceedings and are aware of their legal rights regarding this matter, but intelligently and voluntarily waive such rights.

2. Respondents acknowledge the Findings of Fact set forth above, admit that there is probable cause to conclude that the violations set forth above in the Conclusions of Law occurred, and consent to the entry of the following Order:

ORDER

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

1. Respondent Hueter is hereby reprimanded and shall pay a fine in the amount \$500.00, payable to the State of West Virginia.

2. Respondent Finkelstein is hereby reprimanded and shall pay a fine in the amount \$500.00, payable to the State of West Virginia.

3. Each respondent shall pay his fine within thirty (30) days of the entry of this Consent Decree by the Commission by check or money order made payable to the State of West Virginia and sent directly to the Commission's Office.

4. 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 Respondents' licenses. The Commission shall immediately notify Respondents via certified mail of the alleged violation of the Consent Decree. In the event Respondents contest the alleged violation of the Consent Decree, Respondents are entitled to a hearing to challenge the alleged violation. 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 any procedural rules promulgated by the Commission.

CONSENT DECREE AGREED TO BY:


Ernest R. Hueter, Broker

1/14/2022
Date


Brian E. Finkelstein, Salesperson

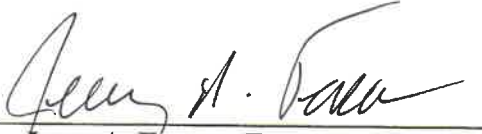
1/18/2022
Date

ENTERED into the records of the Real Estate Commission this:

20th day of January, 2022.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:



Jerry A. Forren, Executive Director