

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,

Complainant,

v.

Formal Complaint No. C-17-016

JERUD LEEALAN CRITES

Licensed Salesperson

License No. WV0028290

Respondent.

CONSENT DECREE

The Respondent, Jerud Leealan Crites (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Cheryl L. Dawson, its Chairman, enter into the following Consent Decree for the purpose of resolving the complaint filed against Respondent by 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 matters. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Commission is a state agency created by West Virginia Code § 30-40-1, *et seq.*, and is empowered to regulate the practice of real estate brokerage in the State of West Virginia.
2. Respondent is a licensed real estate salesperson in the State of West Virginia, holding license number WV0028290, which license expired effective July 1, 2016 and not renewed for the 2017-18 licensure year.

3. On July 6, 2016, the Commission received Respondent's form and fee to renew his license on an inactive status for the 2016-2017 licensure year, which form was returned unprocessed because question No. 1 on the form asking if the person had been a party to any court proceedings during the past 36 months was not answered.

4. On January 17, 2017, the Commission received a corrected form wherein Respondent checked 'YES' to question No. 1 and attached a Reconsideration Order entered by the Circuit Court of Hardy County dated December 22, 2016, regarding felony case No. 16-F-1 naming Respondent as the Defendant, and Respondent's license was thereafter renewed to inactive status.

5. From the Court's Reconsideration Order and ensuing investigation, it was learned that Defendant had been charged, pled guilty to and was incarcerated for "Driving Under the Influence of Alcohol Causing Death" in connection with a traffic accident resulting in the death of a minor and serious injury to the driver of the other vehicle.

6. This felony offense imposes a mandatory sentence of not less than three years, and Respondent was jailed on or about May 19, 2016.

7. Upon Respondent's motion in the criminal matter, over the objection of the State and the victim, the Court entered the Reconsideration Order which placed Respondent on home incarceration in accordance with terms and conditions imposed by the Court.

8. At its regular meeting on February 15, 2017, the Commission initiated Complaint No. C-17-016 against Respondent. (The complaint is incorrectly dated February 22, 2016, and the complaint is hereby amended to reflect the correct year of 2017.)

9. Respondent, by counsel, requested and received an extension of time to respond, which response was received on April 10, 2017, admitting the allegations in the complaint and

setting forth certain representations regarding the tragedy in hoped-for mitigation of the Commission's action on the Complaint.

10. The response also attached Respondent's Plea/Conviction Order entered by the Court on May 4, 2016.

11. The Commission, at its meeting on April 19, 2017, found probable cause to proceed against Respondent for violation of the West Virginia Real Estate License Act and Code related Rules.

12. Due to the grave nature of the criminal offense and the fact that Respondent had only recently pled guilty to the felony, the Commission finds there is basis for a reasonable inference that Respondent's failure to respond to question No. 1 on the July 2016 renewal form was intentional and that his failure to attach any of the documents related to the criminal proceeding was likewise intentional.

13. The Commission further finds that, since Respondent was able to submit the original renewal form while incarcerated, there is basis for a reasonable inference that Respondent could have quickly resubmitted a revised application from prison but intentionally delayed submitting a corrected form until after the motion to reconsider his sentence was granted.

14. Despite the reasonable bases for such inferences, as well as other information received by the Commission regarding Respondent's questionable actions which led to the extension of his non-mandatory interlock system, in furtherance of settlement the Commission accepts Respondent's contention that both the original misrepresentation was unintentional, as was his delay in re-submitting the revised application, and for settlement purposes only agrees to not proceed on the charges relating to violations of West Virginia Code § 30-40-19(a)(1) and (2).

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

16. The Commission has incurred expenses in the prosecution of this Complaint in excess of Two Thousand Fifty Dollars (\$2,050.00), which expenses include the Commission's legal expenses and a portion of the time expended by the Commission's investigator, but does not include other expenses incurred by the Commission in the investigation and prosecution of this Complaint.

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 § 30-40-19(a)(36) provides that the Commission shall have full power to refuse a license for reasonable cause or to revoke, suspend or impose any other sanction against a licensee if the licensee "(h)as been convicted in a court of competent jurisdiction in this or any other jurisdiction of forgery, embezzlement, obtaining money under false pretense, bribery, larceny, extortion, conspiracy to defraud, any other similar offense, a crime involving moral turpitude, *or a felony.*" [Emphasis added.]

3. Respondent's plea of guilty to a felony offense allows the Commission to take disciplinary action pursuant to West Virginia Code § 30-40-19(a)(36).

4. The Commission's related rule West Virginia Code R. § 174-1-20.2 sets forth the requirements for "Court Action" and provides:

20.2 Licensee to inform Commission of criminal action. -- When any licensee is a defendant in any criminal proceeding other than misdemeanor traffic violations, it is the duty of the licensee to supply the Commission with a copy of the petition, complaint, warrant, indictment, or information, and the answer filed, if any, and to

advise the Commission of the disposition of the case and the nature and amount of any judgment, verdict, finding or sentence made, entered or imposed.”

5. Respondent’s failure to timely provide any documents related to his felony charge violates West Virginia Code R. § 174-1-20.2.

6. The Commission may assess administrative costs, which shall be placed in the account of the Commission.

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 acknowledges the Findings of Fact set forth above, admits to the violations set forth above in the Conclusions of Law, and consents to the entry of the following Order:

ORDER

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

1. Since Respondent’s license is expired, Respondent is prohibited from applying for renewal of his license for a period of two years effective July 1, 2017.

2. In the event Respondent seeks licensure after the two-year ineligibility for same, Respondent must meet the qualifications of initial licensure.

3. Respondent shall pay the costs associated with this Complaint in the amount of Two Thousand Fifty Dollars (\$2,050.00).

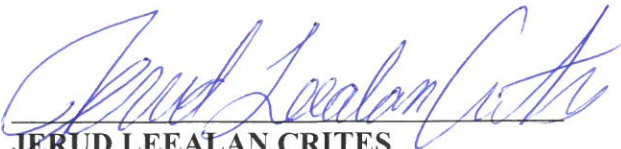
4. The total payment of Two Thousand Fifty Dollars (\$2,050.00) in administrative costs shall be paid by certified check or money order made payable to the State of West Virginia and sent directly to the Commission's Office within thirty (30) days of the entry of this Consent Decree by the Commission.

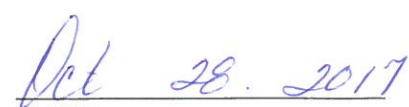
5. Respondent is ineligible for applying for a license until after the expiration of two years from the date of revocation as evidenced by the entry date of this Consent Decree pursuant to West Virginia Code § 30-40-19(f) and is ineligible thereafter unless and until he has paid the costs agreed to in this Consent Decree.

6. 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 additional charges.

[signatures appear on next page]

CONSENT DECREE AGREED TO BY:

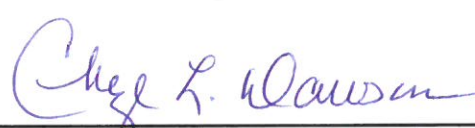

JERUD LEEALAN CRITES


DATE

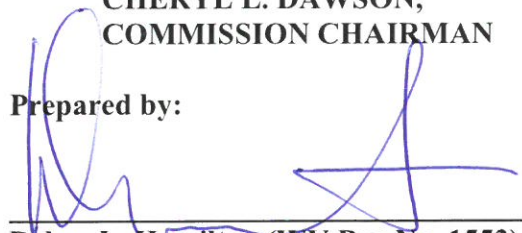
ENTERED into the records of the Real Estate Commission this 7 day of December, 2017.

WEST VIRGINIA REAL ESTATE COMMISSION,

By:

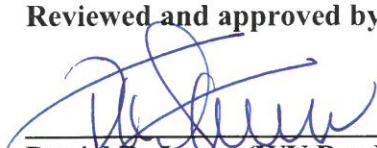

CHERYL L. DAWSON,
COMMISSION CHAIRMAN

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