

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

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

**V.**

**Complaint No. C-11-021**

**BRADLEY PITTMAN,**  
**Licensed Real Estate Broker,**  
*Respondent.*

**FINAL ADMINISTRATIVE ORDER**

Upon review of the record in the above-styled matter, the West Virginia Real Estate Commission hereby ADOPTS, in its entirety, the Hearing Examiner's Recommended Decision, dated January 31, 2012, which is attached hereto and incorporated by reference herein. Based on the Hearing Examiner's Findings of Fact and Conclusions of Law, the Commission hereby ORDERS as follows:

1. The Respondent's license is hereby SUSPENDED; however, such suspension is STAYED and Respondent is placed on probation for a period of thirty (30) days commencing upon the entry of this Order. As a condition of probation, Respondent must comply with the following terms within the thirty (30) day period of probation:

A. The Respondent shall pay a fine in the amount of five-hundred dollars (\$500.00), made payable to the State of West Virginia; and

B. The Respondent shall reimburse the Commission its costs and legal fees associated this proceeding, which total three-thousand three-hundred ninety-nine dollars and eighty cents (\$3399.80).

2. Failure by the Respondent to comply with the above terms of probation within thirty (30) days of entry of this Order, without written approval of the Commission, shall result in the immediate suspension of the Respondent's license until such time as he complies.

ENTERED this 9th day of February, 2012.

WEST VIRGINIA REAL ESTATE COMMISSION

  
\_\_\_\_\_  
John H. Reed, III  
Chairman

**BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION**

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**Complainant,**

**v.**

**Complaint No. C-11-021**

**BRADLEY PITTMAN,  
Licensed Real Estate Broker,**

**Respondent.**

**HEARING EXAMINER S RECOMMENDED DECISION**

This matter came on for hearing on November 15, 2011, pursuant to Statement of Charges and Notice of Hearing dated September 19, 2011. The West Virginia Real Estate Commission (Commission) appeared by its counsel, Anthony D Eates II, Assistant Attorney General, and its Executive Director Richard Strader, and called as witnesses Archie Chestnut, Investigator, and Richard Strader. There was no appearance by the Respondent, either in person or by counsel, even though he was properly and legally served with notice.

All witnesses were sworn, documents were received into evidence, and the hearing was recorded electronically.

After a review of the record and exhibits admitted into evidence at the hearing of this matter, after assessing the credibility of testimony of all witnesses of record and weighing the evidence in consideration of same, the undersigned makes the following findings of fact and conclusions of law.

## **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 broker in the State of West Virginia. At all times relevant, he served as broker for Dobbins, Fisher and Pittman Associates, Inc. in South Charleston, West Virginia.

3. Beginning in Spring or Summer of 2010, Archie Chestnut, Commission Investigator, made several unsuccessful attempts to contact Respondent in order to audit his trust fund account. (Tr. at 10-11; Comm. Ex. 2).

4. On or about October 6, 2010, Chestnut visited Respondent's office in order to audit the trust fund account. Respondent failed to make the trust fund account records available, necessitating a return visit. (Tr. at 13-14; Comm. Ex. 2).

5. On October 8, 2010, Chestnut visited the Respondent's office for a second time in order to audit the trust fund account. Respondent provided records, but the records provided were inadequate for a complete audit, necessitating a third visit. (Tr. at 14-15; Comm. Ex. 2).

6. On October 19, 2010, Chestnut visited Respondent's office and received sufficient records to conduct an audit of the trust fund account. (Tr. at 16; Comm. Ex. 2).

7. The audit revealed that Respondent had failed to properly register his trust fund account (Rental Trust - City National Bank 8005921799) with the Commission. Respondent's

failure to register the account as a trust account resulted in the bank utilizing funds from the trust fund for other purposes, causing the trust fund to be underfunded by \$5,553.53. (Tr. at 20; Comm. Ex. 2).

8. The Commission's audit also revealed that Respondent had deposited \$5,553.53 into the trust fund in order to make the fund solvent. (Tr. at 22.)

9. Based on the information discovered in the audit, the Commission initiated the above-styled Formal Complaint against the Respondent on November 12, 2010. (Comm. Ex. 4).

10. In his response to the Formal Complaint, the Respondent did not dispute the audit findings. (Tr. at 28; Comm. Ex. 4).

### **CONCLUSIONS OF LAW**

1. West Virginia Code §§ 30-40-18(j), (k) and (1) require a broker to register his trust account with the Commission.

2. West Virginia Code § 30-40-19(a)(19) authorizes the Commission to suspend or revoke a real estate license if the licensee violates any provision of the Real Estate License Act, West Virginia Code § 30-40-1, et seq.

3. The Respondent's failure to register his trust account with the Commission renders his license subject to discipline.

4. West Virginia Code § 30-40-19(a)(24) authorizes the Commission to suspend or revoke a real estate license if the licensee "[f]ails to disclose any information within his

or her knowledge or to produce any document, book or record in his or her possession for inspection of and copying by the commission or its duly authorized representatives."

5. The Respondent's failure provide the Commission's investigator with sufficient documents to audit his trust account on October 6 and 8, 2010, renders his license subject to discipline.

### DECISION

After a complete and thorough review of the record in this matter it is the finding of the undersigned Hearing Examiner that in accordance with the foregoing findings of fact and conclusions of law that the Respondent's violations of the provisions of the West Virginia Real Estate License Act, W. Va. Code § 30-40-1 et seq., as specifically set forth in the Conclusions of Law renders Respondent's license subject to discipline. Therefore, the Respondent's license as a real estate broker in the State of West Virginia is subject to such sanctions as the West Virginia Real Estate Commission in its sound discretion may deem appropriate.

Dated this 31<sup>st</sup> day of January, 2012.

  
\_\_\_\_\_  
JACK C. McCLUNG  
HEARING EXAMINER



**State of West Virginia  
Real Estate Commission**

300 Capitol Street, Suite 400  
Charleston, West Virginia 25301  
(304) 558-3555  
FAX (304) 558-6442  
<[www.wvrec.org](http://www.wvrec.org)>

JOHN H. REED, III, CHAIRMAN  
HURRICANE

VAUGHN L. KIGER, VICE CHAIRMAN  
MORGANTOWN

CHERYL L. SKILES, SECRETARY  
CHARLESTON

KATHRYN L. MARTIN  
MORGANTOWN

KATHY J. ZAFERATOS  
BECKLEY

RICHARD E. STRADER, CPA  
EXECUTIVE DIRECTOR

TO: Office of The Secretary of State

FROM: Richard E. Strader, Executive Director  
West Virginia Real Estate Commission

DATE: February 10, 2012

RE: Consent Decree

Enclosed for filing in the State Register, is a Consent Decree which was entered into the records of the West Virginia Real Estate Commission on February 09, 2012.



**State of West Virginia  
Real Estate Commission**

300 Capitol Street, Suite 400  
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BECKLEY

RICHARD E. STRADER, CPA  
EXECUTIVE DIRECTOR

February 10, 2012

Bradley S. Pittman  
1530 Clark Road  
Charleston, WV 25314

VIA Certified Mail:  
7010 1870 0001 7804 3131

RE: Complaint # C-11-021

Dear Mr. Pittman:

Enclosed please find a certified copy of the Final Administrative Order, in the above referenced matter, which was entered into the records of the Real Estate Commission on February 9, 2012.

You are hereby notified that you may seek judicial review of this Decision and Final Order under the provisions of Chapter 30, Article 40, Section 21, Chapter 30, Article 1, Section 9, of the West Virginia Code or under other applicable provisions of law.

Sincerely,

A handwritten signature in cursive script, reading "Richard E. Strader".

Richard E. Strader  
Executive Director

cc: Anthony D. Eates, II



JOHN H. REED, III, VICE CHAIRMAN  
HURRICANE

CAROL H. PUGH, SECRETARY  
BECKLEY

VAUGHN L. KIGER  
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ROBERT R. VITELLO  
CHARLESTON

JERRY D. ZAFERATOS  
BECKLEY

RICHARD E. STRADER, CPA  
EXECUTIVE DIRECTOR

**FORMAL COMPLAINT**

C-11-021

**Instructions:**

Please type or print clearly in black pen or ink only on the front side of each page. Complete all applicable sections of this form fully and accurately. Attach legible copies of contracts and all other documents relating to your complaint. Please do not use a "Highlighter" on any of the documents you submit with your complaint due to the fact these marks do not copy well. You should provide all information which you know or can discover with reasonable investigation. If you wish to file affidavits from persons who have personal knowledge of the facts and circumstances involved in this complaint, the affidavits must be verified before a Notary Public in order to be admissible. For assistance in completing or submitting this Complaint, contact the Real Estate Commission. If more space is needed, attach extra sheets.

**Please note:**

The Real Estate Commission regulates real estate licensees. The Commission is not empowered to enforce, interpret, modify, rescind or cancel listing agreements, purchase and sale agreements or any other contract, or to order the return of earnest money, award damages, settle real estate commission fee disputes or otherwise settle claims.

If a licensee is found guilty of a violation of the Real Estate License Act or Legislative Rule, the Commission has authority to take disciplinary action against that licensee.

The Real Estate Commission cannot provide private legal advice or services.

**I. PLAINTIFF(S) INFORMATION**

Name(s): West Virginia Real Estate Commission Action of 11/12/10

Address: 300 Capitol Street, Suite 400, Charleston, WV 25301

Telephone: 304-558-3555 (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

Occupation(s): \_\_\_\_\_

**II. LICENSEE(S) INFORMATION**

1. Name Bradley Pittman  
license type: ☒ Broker ☐ Associate Broker ☐ Salesperson ☐ Don't Know

Firm Name Dobbins, Fisher and Pittman Associates, Inc.

Address 339 - 3rd Avenue, South Charleston, WV 25303

Telephone (304) 344-2551 Responsible Broker \_\_\_\_\_

2. Name \_\_\_\_\_  
license type ☐ Broker ☐ Associate Broker ☐ Salesperson ☐ Don't Know

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Responsible Broker \_\_\_\_\_

### III. GENERAL INFORMATION ABOUT COMPLAINT

1. Type of real estate transaction: (check one)

☐ Residential ☐ Commercial ☐ Industrial ☐ Timeshare ☐ Unimproved Land ☐ Lease Option  
☐ Other (describe) \_\_\_\_\_

2. Date(s) of transaction(s): \_\_\_\_\_

3. Other pertinent information: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4. (I ☐ have/ ☐ have not) contacted the persons complained about and attempted to resolve this matter.

Person and dates contacted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Results: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

5. (I ☐ have/ ☐ have not) retained an attorney to assist me in resolving this matter.

Attorney's name \_\_\_\_\_ Telephone \_\_\_\_\_

Attorney's address \_\_\_\_\_

May we contact your attorney about this matter? \_\_\_\_\_

6. List the names of all other agencies and associations with whom you already have or intend to file a complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. This complaint involves the same or related matters which are the subject of a civil lawsuit which (check one)

☐ has been completed ☐ has been filed in a court of law ☐ may be filed in a court  
☐ will be filed in a court of law ☐ don't know

Court name \_\_\_\_\_ Case # \_\_\_\_\_

Court address \_\_\_\_\_

Type of action \_\_\_\_\_

Case status \_\_\_\_\_

8. Have other complaints about this or related matters been filed with the Commission?

☐yes ☐no ☐don't know (check one) If yes, give details below:

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9. State specific factual allegations upon which your Complaint is based. In your own words, state all of the facts which relate to your Complaint, including dates and places. Use extra paper if necessary.

At its November 12, 2010 meeting, the West Virginia Real Estate Commission voted to initiate a complaint against Bradley Pittman, Broker. The allegations are as follows:

The first part of August 2010 and the two months following, the Real Estate Commission made several attempts to try and contact Mr. Pittman so that an audit could be performed on his trust fund accounts. In those two months when contact was successfully made, Mr. Pittman avoided the numerous requests and deadlines placed on him for the appointments scheduled to perform an audit.

On October 6, 2010, the Real Estate Commission's investigator attempted to audit Mr. Pittman's trust fund accounts at his normal place of business. Mr. Pittman failed to make the trust fund records available to the investigator as required. As a result of Mr. Pittman's conduct, the investigator was forced to make a second trip to his office on October 8, 2010. On October 8, 2010, inadequate records were made available to the investigator which resulted in an incomplete audit of Mr. Pittman's trust fund accounts. As a result of Mr. Pittman's conduct, the investigator was forced to make a third trip to his office on October 19, 2010. A complete audit was performed on October 19, 2010. (cont.)

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☐ yes ☐ no ☐ don't know (check one) If yes, give details below:

The audit disclosed that Mr. Pittman failed to properly register his trust fund accounts with the Real Estate Commission and the rental trust fund account (rental trust-City National Bank-8005921799) was underfunded in the amount of \$5,553.53 as of October 8, 2010. The audit on October 19, 2010, showed that Mr. Pittman had deposited \$5,553.53 into the rental trust fund account in order to make the account solvent.

10. (I \_\_\_am/ \_\_\_am not) willing to appear under oath as a witness to cross examination concerning the allegations made in this complaint. (The Complainant's unwillingness to testify may be the basis for the Commission dismissing the Complaint after its investigation and preliminary consideration.) If you are not willing to testify, state reasons:

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11. Attach clear copies of **ALL** pertinent documents and papers which directly or indirectly relate to this Complaint.

#### IV. VERIFICATION OF COMPLAINT

I understand a copy of this Complaint, including any and all documents, may be given to any person or firm against whom I have complained and any other regulatory agency which may have an interest in the information contained herein.

I(we), the Plaintiff(s), hereby certify that all the information submitted herein is true and correct to the best of my(our) knowledge and belief.

Dated this 18 day of November, 20 10

Plaintiff(s)  
Signature(s):

  
Deputy Director

**Dobbins, Fisher & Pittman Real Estate**

339 3<sup>rd</sup> Avenue S. Charleston, WV 25303

PHONE (304)344-2551 FAX (304)342-0110

**RECEIVED**

APR 19 2011

**W.VA. REAL ESTATE  
COMMISSION**

4/18/11

Re: Letter dated 4/1/11

Mr. Strader,

In reference to the attached  
Complaints,

The Trust Fund for our property  
Management account was out of  
Balance. I have since cancelled  
that account & under your direction  
have placed the ~~turn~~<sup>one</sup> property in  
the earnest money account with  
United National that is registered  
with the Commission & have  
records. These are current.

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**Dobbins, Fisher & Pittman Real Estate**339 3<sup>rd</sup> Avenue S. Charleston, WV 25303

PHONE (304)344-2551 FAX (304)342-0110

I have had some difficult circumstances which have contributed to my accounts being unorganized + myself being unavailable. I have been taking care of an ill father, which I am the only child available. He has since passed away. Also I had an employee steal money from Dobbins Fisher + Pittman. combined with defaulting on a loan with Chase Bank, which took over \$7,000 dollars from that account. Please provide me the Real Estate Commissions prior audit to me, prior to the last one in October. of 2010.

**Dobbins, Fisher & Pittman Real Estate**

339 3<sup>rd</sup> Avenue S. Charleston, WV 25303

PHONE (304)344-2551 FAX (304)342-0110

4/18/11

In reference to the attached  
complaint from WV Office of Insurance  
Commissioner I have appeared  
before Judge King & have complied  
with their request. Documents can  
be supplied.

My economic situation does not appear  
to be getting any better & am  
in process of closing my office in the  
next 2 months.

Any further information please feel free  
to request



Brooker