



ARKANSAS REAL ESTATE COMMISSION N E W S L E T T E R

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Arkansas Real Estate Commission

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By Gary C. Isom, Executive Director

Class D Felony Conviction for Unlicensed Real Estate Practice in Sherwood

(Note: Deputy Executive Director Andrea Alford contributed to this article.)

On August 22, 2016, in the 7th Division Circuit Court of Pulaski County, former real estate license applicant Shaneka Jones plead guilty to a felony charge of Selling Real Estate Without a License and agreed to pay restitution to the Buyer in the amount of \$7,000. Jones acted through her corporate entity, Home Solutions Plus, LLC.

It has long been a Class D felony to engage in unlicensed real estate activity, with county prosecuting attorneys having jurisdiction to prosecute any such activity (A.C.A. 17-42-105). In 2011, the Real Estate Commission gained authority to take administrative action over unlicensed persons who engage in real estate activities, primarily because prosecuting attorneys had never exercised their jurisdiction over unlicensed individuals. Imagine our surprise in late 2016 when Detective Jamal Hockaday of the Sherwood Police Department informed us that his department had successfully pursued the conviction of an unlicensed person (Shaneka Jones) for the Class D Felony of engaging in real estate brokerage activities without a license.

Allow me to set the stage for you: An active duty member of the Armed Forces is transferred from Arkansas to Kentucky. As he's getting settled in Kentucky, he finds out his home in Sherwood has been sold. There's just one problem: he didn't sell it. Sounds unbelievable, doesn't it? We're afraid it's not. Read on.

The owners of the subject property were Eugene and Falonda Woods. Mr. Woods is active duty Army and was stationed in Arkansas in 2005, when he and Mrs. Woods purchased the subject property in Sherwood. Mr. Woods was subsequently transferred to Kentucky, and he and his wife were preparing to sell the property in the summer of 2015.

Around that same time, Mr. Woods noticed a spike in the electric usage at his Sherwood home. Since the home was vacant, he asked his neighbors to keep an eye on the place. Not long after, Mr. Woods' neighbors contacted him and said two men and a woman had been going in and out of the home. The men told the neighbors they had bought the home and were preparing to flip it. Upon hearing this, Mr. Woods took leave and traveled to Arkansas.

When he arrived at the home in Sherwood, Mr. Woods contacted the Sherwood Police Department to report the suspicious activity. Mr. Woods found that his keys would no longer open the home's locks and a lockbox had been placed on the front door. An officer arrived and took a report, noting the apparent changes to both the exterior and interior of the home, but the alleged buyers were nowhere to be found. Mr. Woods caught up with them the following day when he stopped by the house and saw a young man painting the inside of his home. When Mr. Woods asked the man what he was doing in his house, the man said his father had purchased the home in foreclosure. Mr. Woods immediately called the police and verified both his ownership of the home and

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good standing with his mortgage company at the scene.

The buyer told police he had worked with a foreclosure company owned by a “realtor”, Shaneka Jones. The “sale” had been facilitated at Cheddar’s Restaurant in Little Rock. The buyer made a \$2,000 down payment on the property to Jones using a single page Assignment of Contract form. Jones purported to have authority to sell by virtue of a Quit Claim Deed and Option to Purchase Agreement, both of which appeared to have been signed by owner Falonda Woods. The buyer stated he was unaware Mr. Woods still owned the home.

Detective Hockaday stated Mr. Woods informed him that his wife, Falonda Woods, had not signed any of the documents related to the alleged transaction. When Det. Hockaday showed Jones a picture of Falonda Woods, Jones stated the person in the picture was not the same person who signed the name “Falonda Woods” to the documents.

Like many of us, Detective Hockaday has a great deal of appreciation for the men and women who serve our country. He also has a great deal of experience in working with fraud, having collaborated with law enforcement agencies including the FBI and the Secret Service. He was determined to see justice done for the Woods family. As he researched the law, Det. Hockaday found A.C.A. Section 17-42-105 in the Arkansas Real Estate License Law. And that’s how Ms. Jones earned her Class D Felony.

There’s more to this story, not the least of which includes a frank and honest discussion of the implications of unlicensed activity and the applicability of the term “wholesaling”. Be watching for more on this and recent legislation in our next newsletter. For now, the AREC tips its hat to Officer Jamal Hockaday and the Sherwood Police Department for their diligence in protecting the citizens of Arkansas.



FORMAL HEARING DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from February 2016 through October 2016. Formal Hearing Decisions that have been appealed are not listed.



Respondent(s): David Yarbrough, Principal Broker, Yarbrough and Yarbrough, Fort Smith, Arkansas, Formal Hearing #3423

Violation(s): A.C.A. §17-42-311(a)(11), §17-42-311(a)(2), §17-42-310(a)(1), §17-42-311(a)(6), and Commission Regulations 10.22(g), 10.7(b)(2), 10.19(a)(9), 10.19(b), 9.2(b), 7.3(a), 7.3(d), 7.3(e), 7.6(a), 10.10(b), 10.10(a), 10.8(g)(2), 10.7(b)(3), and 10.8(g)(3)

Sanction(s): Respondent David Yarbrough’s license was suspended until (1) the Complainant receives rent and management history that is brought up to date and all funds due to the Complainant are paid; (2) all records requested by AREC staff are received; and (3) there is a full reconciliation of all trust accounts made available to the Arkansas Real Estate Commission’s Executive Director. Additionally, Mr. Yarbrough was required to pay a \$500 fine and must attend the first available property management education and training course offered by the Commission. If those requirements were not met within a ninety (90) day period upon receipt of this Order, Respondent David Yarbrough’s license shall be revoked. NOTE: By letter dated June 15, 2016, Executive Director Gary Isom advised Respondent Yarbrough that his license was revoked.

(Complainant Gerald McClellan d/b/a Treasure Map Investments II, LLC)

In 2002, Complainant McClellan purchased the subject property, 2320 N. 55th Lane, Fort Smith, Arkansas using the services of Respondent Yarbrough. Complainant McClellan entered into an agreement with Respondent Yarbrough to manage subject property.

From March 2013 through April 2014, Complainant McClellan did not receive monthly rental reports or monthly rental proceeds from Respondent Yarbrough for the subject property. On or about May 21, 2014, at Complainant’s request, Respondent provided a 2013 year end rental statement and a 2014 year to date rental statement.

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Respondent Yarbrough issued Check # 9455 in the amount of \$3,017.72 to Complainant for net rent amount due for the period March 2013 through April 2014.

On or about May 21, 2014, Respondent Yarbrough provided to Complainant a list of expenses deducted for repairs for the subject property. Respondent failed to provide Complainant and the Real Estate Commission copies of invoices from vendors substantiating those expenses.

Complainant McClellan entered into a new Property Management Agreement with Respondent Yarbrough on or about May 21, 2014, Respondent Yarbrough did not sign the Property Management Agreement. Complainant McClellan was not provided copies of any lease agreements or monthly rental statements on the subject property.

On or about July 21, 2014, Complainant McClellan received a direct deposit to his bank account in the amount of \$603.00 from Respondent Yarbrough, but never received a statement displaying that amount. Complainant McClellan did not receive further rent distributions or monthly reports for the subject property.

March 25, 2015, Complainant McClellan's attorney sent a letter to Respondent Yarbrough and requested a full accounting of costs and rents for the subject property. Respondent Yarbrough did not supply the information.

May 20, 2015, Complainant McClellan entered into a Property Management Contract with another company.

By letter dated September 21, 2015, AREC mailed Complainant McClellan's complaint to Respondent Yarbrough. Respondent Yarbrough did not file a written response. By letter dated October 5, 2015, AREC mailed Complainant McClellan's complaint via certified mail to Respondent and requested a response within five days of receipt of the documents. Respondent signed for the documents on or about October 22, 2015. Respondent did not file a written answer to the complaint.

(Arkansas Real Estate Commission)

AREC Supervisor Halstead and Investigator Sullentrup scheduled an office visit to Respondent Yarbrough's office in Fort Smith, Arkansas on August 13, 2015. The purpose of the meeting was to conduct an office review of transaction files, trust account records and to discuss Complainant McClellan's complaint. Respondent Yarbrough requested they meet him at the Library in Fort Smith and stated he had moved offices but the new office was not ready. AREC Supervisor Halstead informed Respondent Yarbrough he had thirty days to provide a change of business location and picture of his sign to AREC. Respondent did not supply the new office location information and picture of sign to AREC until January 4, 2016.

Respondent Yarbrough did not bring any transaction files to be reviewed to the meeting. Respondent Yarbrough brought bank statements for 2013 and 2014 for his Trust Account to the meeting. None of the monthly statements had been reconciled to his check register. AREC Investigator Sullentrup provided Respondent Yarbrough a list of property addresses for both sales transactions and property management transactions for which Respondent was requested to provide copies of his files to AREC. Respondent was requested to provide bank reconciliations for the Trust Account for December 2014 and July 31, 2015, along with a listing of total Trust Funds being held for both property management and pending sales transactions for the same dates. AREC Supervisor Halstead requested that Respondent Yarbrough provide the information within thirty days. This information was not provided as requested.

On or about September 9, 2015, Respondent Yarbrough provided Investigator Sullentrup the pending transaction file for 503 E. Broadway, Huntington, Arkansas. The Real Estate Contract indicated Respondent represented both Buyer Eliad Properties, LLC and Seller. Respondent provided an Agency Representation Disclosure Form signed by Buyer without any type of agency relationship disclosed. Respondent Yarbrough informed AREC Investi-

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gator Sullentrup that his agency relationship with the Buyer was non-exclusive and therefore not reduced to writing. Respondent did not provide AREC Investigator Sullentrup a substantial justification for not reducing the agency agreement to writing. Respondent Yarbrough failed to date the acceptance of the Real Estate Contract.

On or about September 10, 2015, Respondent Yarbrough provided Investigator Sullentrup a pending transaction file for 4109 Marshall Drive, Fort Smith, Arkansas. The Real Estate Contract indicated Respondent represented both Buyer Eliad Properties, LLC, and Seller. Respondent provided an Agency Representation Disclosure Form signed by Buyer without any type of agency relationship disclosed. Respondent Yarbrough informed AREC Investigator Sullentrup that his agency relationship with the Buyer was non-exclusive and therefore not reduced to writing. Respondent Yarbrough failed to list a commission amount or percentage on the Exclusive Right to Sell Agreement. The HUD-1 reflected Respondent was paid a commission of \$1,650 by the Seller.

By email dated September 10, 2015, Investigator Sullentrup requested that Respondent Yarbrough send additional documents by September 18, 2015. Respondent Yarbrough failed to provide the additional items as requested.

Respondent(s): Jimmy Payne, Principal Broker (Revoked), All Real Estate, LLC, Fayetteville, Arkansas, Formal Hearing #3440

Violation(s): A.C.A. § 17-42-311(a)(13), §17-42-311(a)(11), § 17-42-311(a)(2), § 17-42-311(a)(6), § 17-42-316(b)(2)(I), § 17-42-311(a)(7), and Commission Regulations 8.5(a), 10.10(a), 10.8(b) and (c), and 10.12(a)

Sanction(s): The Arkansas Real Estate Commission has unanimously determined to revoke Respondent Jimmy Payne's license. Based upon the guidelines of Arkansas Code Annotated § 17-42-312, the Commission assessed a fine of \$1,000.00 per violation, for a total fine of \$11,000.00 against Respondent Payne.

Recovery Fund Order: Respondent Jimmy Payne is ordered to pay \$4,100.00 to Complainant Swink, in a period not to exceed thirty (30) days. If Respondent Payne fails to make such payment, payment will be made through the Recovery Fund.

On or about July 26, 2011, the owner of property located at 1904 College Avenue, Fayetteville, Arkansas entered into an Exclusive Right-to-Sell (Commercial) agreement with Lindsey and Associates of Fayetteville, Arkansas through Salesperson Robert (Bob) Hopmann. Through multiple extensions, the Exclusive Right-to-Sell agreement remained in effect at all times pertinent to this matter. (NOTE: Neither Salesperson Hopmann nor Lindsey & Associates were subjects of this investigation.)

On or about September 1, 2012, Complainant W. Brooks Swink was served with an eviction notice to vacate the property he was leasing by November 15, 2012 necessitating that Complainant Swink locate a property into which he could move his business operation.

On or about October 1, 2012, at Respondent's instruction, Complainant signed an incomplete Exclusive Agency Agreement (Commercial). Upon completion, the Exclusive Agency Agreement (Commercial) stated it was to expire on October 30, 2013, at 12:59 p.m., unless extended by Client and Broker.

On or about October 3, 2012, Respondent signed a statement affirming the Respondent received \$2,500 from Complainant's business, Brooks Graphics, for a deposit on investment property located at 1904 N. College Avenue, Fayetteville, Arkansas. Complainant remitted Cashier's Check 3106127 dated October 2, 2012 to Respondent's firm, All Real Estate for \$2,500. Respondent did not reduce to writing the agreement and terms by which Complainant agreed to pay the deposit. Respondent did not deposit the funds into his trust account or with an

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escrow agent.

On or about October 19, 2012, Respondent signed receipt No. 486707 for \$475 paid by Complainant for an Inspection conducted on 1904 N. College. On or about October 20, 2012, a home inspector of Fayetteville, Arkansas, issued an invoice for \$475 for the inspection. Respondent did not reduce to writing the agreement and terms by which Complainant agreed to pay for the inspection.

On or about November 1, 2012, at Respondent's instruction, Complainant signed an incomplete Exclusive Buyer Agency Agreement. Upon completion, the Exclusive Buyer Agency Agreement stated a beginning date of November 1, 2012 with an expiration date of November 31, 2013. Item #6 B of the Exclusive Buyer Agency Agreement stated the Selling Firm's fee was \$12,500 for professional services rendered. Item #9 stated, "Buyer may cancel this Exclusive Buyer Agency Agreement prior to its expiration only after: 1) Buyer has provided written notice to Selling Firm, sent by United States certified mail, return receipt required, and seven calendar days have elapsed since such written notice was received by Selling Firm. Upon the date of cancellation, Buyer shall be liable to Selling Firm for a cancellation fee equal to the liquidated sum of \$12,500..." Item #15 stated "This agreement is also good on any other property which was found from \$200,000 to \$300,000 and/or a rental property with payments of "\$100 to \$2,000' per month with the buyer having the right to buy at a later date." Respondent altered Item #15 which originally stated "\$1,000 to \$2,000 per month" because Complainant rented a property for less than \$1,000 per month.

On or about November 2, 2012, Respondent signed receipt No. 486709 for \$500 paid by Complainant for electric work. The receipt did not identify a property for which the electric work was to be done. On or about November 2, 2012, the home inspector issued an invoice for \$500 for the electric work. Respondent did not reduce to writing the agreement and terms by which Complainant agreed to pay for the electric work. The electrical work was never done.

Respondent signed receipt No. 486708 for \$1,600 paid by Complainant for "A. C. Work". The receipt did not identify a property. Respondent did not provide a copy of an invoice for the work. Respondent had not reduced to writing the agreement and terms by which Complainant agreed to pay for the "A. C. Work".

On or about November 16, 2012, at Respondent's instruction, Complainant signed an incomplete Real Estate Contract (Commercial) for the subject property. Upon completion, the contract stated a purchase price of \$300,000. Complainant never agreed to offer \$300,000 for the property. Real estate contract Item #19, titled AGENCY, indicated that the LISTING FIRM AND SELLING FIRM ARE THE SAME AND REPRESENT BOTH BUYER AND SELLER and was signed by Respondent Broker Payne as the Selling Agent and the Listing Agent. Respondent did not have an agency agreement with the seller and did not represent the seller. Respondent did not present Complainant's offer to the seller or to the seller's agent. Complainant had assumed that the closing date was to be November 18, 2012. Item #11 of the Real Estate Contract stated "A.S.A.P." as the closing date.

On or about the end of November 2012, Complainant requested the funds Complainant had paid to Respondent be returned. Respondent did not remit the funds to the Complainant. Respondent claims the funds were applied to the \$12,500 cancellation fee included in the Exclusive Buyer Agency Agreement. Complainant never executed a cancellation of the Exclusive Buyer Agency Agreement.

Respondent(s): Carey G. Young, Salesperson, Truman Ball and Associates, Bryant, Arkansas, Formal Hearing #3432

Violation(s): A.C.A. § 17-42-311(a)(2), § 17-42-311(a)(7), and Commission Regulation 10.16(b).

Sanction(s): Mr. Young was required to attend the Arkansas real estate pre-license law portion of the pre-licensing course, and then take the exam and pass that exam.

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On or about October 9, 2014, a Default Judgment was issued against Respondent Young in the Circuit Court of Pulaski County, Arkansas, Sixth Division “in the sum of \$58,143.00 plus \$3,000 attorney fee, interest in the sum of \$634.00 together with cost herein expended for all of which garnishment, execution, and attachment may issue. This judgment bears interest at a rate of 10% per annum from the date of entry until paid.”

On or about January 28, 2015, the Arkansas Residential Contractors Committee found as FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, that Respondent Carey Young was guilty of violating A. C. A. Section 17-25-505, entitled “License from committee required.”

Respondent Young failed to report the above action to the Arkansas Real Estate Commission within thirty (30) days of that conviction.

Respondent(s): Eric C. Nash, Principal Broker, Nash Realty, Inc., Little Rock, Arkansas, Formal Hearing #3434

Violation(s): A.C.A. § 17-42-311(a)(2) and § 17-42-311(a)(13), and Commission Regulations 10.10(a) and 10.10(c)

Sanction(s): Respondent Nash was ordered to pay a \$500.00 penalty to the Arkansas Real Estate Commission within thirty (30) days, and complete the Arkansas Real Estate Commission 45-hour broker pre-license course and the 30-hour broker post-license course.

On or about October 15, 2014, Respondent or a representative of Respondent’s firm prepared a Residential Lease/Rental Agreement, a Real Estate Contract and a Non-Representation Disclosure Addendum between two parties, neither of whom he was acting on behalf of as a real estate broker. Complainant Griffin owned the property identified in the agreements as 4521 Timberland Drive, Little Rock, AR.

On March 29, 2016, Respondent was offered a Consent Order in lieu of ordering a hearing.

On April 20, 2016, Respondent requested a formal hearing in lieu of agreeing to the Consent Order.

Complainant Griffin agreed to allow Gabon Contreras, a contractor to occupy her property at 4521 Timberland Drive, Little Rock, AR. Respondent Nash agreed to reduce Complainant’s agreement to writing.

On or about October 15, 2014 Respondent or a representative with Respondent’s firm prepared a Residential Lease/Rental Agreement which identified Complainant Tedra Griffin/Reginald E. Myers (RV LV Trust) as the authorized agent of the owner even though Complainant Tedra Griffin/Reginald E. Myers (RV LV Trust) was referred to as “Owner” of the subject property elsewhere in the agreement. The tenant was identified as Lucina Reyes-Lopez who was the mother of Gabon Conteras. Neither the Respondent, the Respondent’s firm, nor any agent licensed under the Respondent was identified as a broker, agent or property manager for the transaction.

The Residential Lease/Rental Agreement provided that the tenant would pay a security deposit of \$5,000 which would be held by Management in a non-interest-bearing trust account. Complainant Griffin was identified on page 6 of the agreement as “Management as Authorized Agent of Owner”. The buyer remitted Cashiers Check 5500818605 on Regions bank in the amount of \$5,000 directly to Complainant Tedra Griffin/Reginald Eugene Myers Revocable Living Trust. Complainant Griffin never intended or agreed to deposit the security deposit into a non-interest bearing trust account and the proceeds were never held in a non-interest bearing trust account.

Paragraph 11. ALTERATIONS AND ADDITIONS: of the Residential Lease/Rental Agreement prohibited the tenant from making any alteration to the property without the express prior written permission of Management.

Paragraph 26. SPECIAL CONDITIONS. stated “This Contract acts as a Lease with Purchase Option. The buyer is required to put a 10% down payment towards the purchase price of \$ 75,000 (sic). The \$7500 is divided into two (2) installments. The \$5000 down payment was received on 10/15/14 and the 2nd installment of \$2500 will be paid on March 15, 2014. See Real Estate Contract (Residential) Serial # 028759-500141-3391667”. The

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date for the 2nd installment was in error and should have read March 15, 2015.

On or about October 15, 2014 Respondent or a representative of Respondent’s firm prepared a Real Estate Contract (Residential), Serial number 028759-500141-3391667 which identified Complainant Tedra Griffin/R.E. Myers (RV LV Trust) as the seller and Lucina Reyes-Lopez as the buyer. The selection of Item E of paragraph 4 of the contract indicated there was no agency representation provided to the parties by Respondent, Respondent’s firm or any agent licensed under the Respondent.

Paragraph 3. PURCHASE PRICE: stated “The seller agrees to Owner Finance with 0% interest over a period of 5 years to Buyer with monthly installments of \$775.00. See Lease Addendum.” The closing date was set for October 31, 2019. The transaction did not involve a present conveyance of fee simple absolute between the parties.

Paragraph 3. PURCHASE PRICE: indicated the buyer was to pay \$7,500 in cash at Closing as a down payment. Paragraph 23. POSSESSION, by the selection of Item B, the buyer’s possession was to occur after the buyer delivered the purchase price funds required to be executed pursuant to the terms of the contract. The buyer never paid the \$7,500 down payment.

Gabon Conteraras, a contractor, had done work for Respondent’s real estate firm. After the contract was signed Conteraras began construction on the Complainant’s property. Complainant had not authorized Conteraras to perform construction or to alter the property.

On or about October 15, 2014 Respondent or a representative of Respondent’s firm prepared a Non-Representation Disclosure Addendum between Buyer/Lessee Lucina Reyes-Lopez and Complainant Tedra Griffin/Ronald E. Myers Revocable Living Trust.

POPE COUNTY BAR ASSOCIATION, INC v. SUGGS **274 Ark, 250, 624 S.W.2d 828 (1981)** **Arkansas Supreme Court**

SC-1. In Pope County Bar Association, Inc. v. Suggs, before the Arkansas Supreme Court, the Chancellor held that real estate brokers could fill in the blanks of certain standardized, printed forms in connection with simple real estate transactions, provided they had been previously prepared by a lawyer. The chancellor approved the use of standard warranty deeds, quitclaim deeds, release deeds, bills of sale, lease agreements and mortgages with power of sale under six specific restrictions:

- (1) *“That the person for whom the broker is acting has declined to employ a lawyer to prepare the necessary instruments and has authorized the broker to do so; and*
- (2) *That the forms are approved by a lawyer either before or after the blanks are filled in but prior to delivery to the person for whom the broker is acting; and*
- (3) *That the forms shall not be used for other than simple real estate transaction which arise in the usual course of the broker’s business; and*
- (4) *That the forms shall be used only in connection with real estate transactions actually handled by such brokers as a broker; and*
- (5) *That the broker shall make no charge for filling in the blanks; and*
- (6) *That the broker shall not give advice or opinions as to the legal rights of the parties as to the legal effects of instruments to accomplish specific purposes or as to the validity of title to the real estate.”*

SC 2. By amendment, the decree was modified to define a “simple real estate transaction” as:

“...those which involve a direct, present conveyance of a fee simple absolute between parties, which becomes effective immediately upon delivery of the title document. Such transactions do not include conveyances involving reservations or provisions creating life estates, limited or conditional estates, contingent or vested remainders, fee tails, easements or right-of-way grants, or any other conveyance of future, contingent or limited interest.”

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NOTE: Due to this being a unique hearing regarding the Pope county case, the following applicable verbiage from the Conclusions of Law is included.

Respondent prepared a Residential Lease/Rental Agreement between two parties without acting as a broker for any party in the transaction. A restriction of Pope County Bar Association, Inc. v Suggs allows real estate brokers to complete forms used only in connection with real estate transactions actually handled by brokers as a broker. By completing a contractual agreement for a transaction in which he was not involved as a broker Respondent operated outside the usual course of a broker's business. Respondent's conduct constitutes improper dealings.

Respondent prepared a Real Estate Contract (Residential) and a Non-Representation Disclosure Addendum between two parties without acting as a broker for any party involved in the transaction. A restriction of Pope County Bar Association, Inc. v Suggs allows real estate brokers to complete forms used only in connection with real estate transactions actually handled by brokers as a broker. By completing a contract for a transaction in which he was not involved as a broker Respondent operated outside the usual course of a broker's business.

Respondent(s): Brian Richards, Principal Broker, Richards Commercial Real Estate, Fort Smith, Arkansas, Consent Order #3438

Violation(s): A.C.A. §17-42-311(a)(2) and Commission Regulations 10.4 (b), 10.5(a), (b), and (c)

Sanction(s): Respondent Richards was required to pay a \$500.00 penalty within thirty (30) days and must complete the Arkansas Real Estate Commission 45 classroom hour Broker Pre-license course and 30 classroom hour Broker Post-license course.

February 19, 2014, Salesperson Kevin Minks became licensed with Respondent Richards' firm, Richards Commercial Real Estate. With Respondent's knowledge, Salesperson Minks managed property for another person for compensation under the name of Preferred Property Management located at 2026 Dodson, Fort Smith, Arkansas.

On December 17, 2015, Respondent Richards allowed Salesperson Minks to advertise property for rent with Preferred Property Management. The website listed Richards Commercial Real Estate as the Broker. Salesperson Minks was not licensed with Richards Commercial Real Estate at the time of this advertisement.

Respondent(s): Kevin Minks, Salesperson, Richards Commercial Real Estate, Fort Smith, Arkansas, Consent Order #3437

Violation(s): A.C.A. §17-42-311(a)(2) and Commission Regulations 10.5(a) and 10.5(b)

Sanction(s): Respondent Minks was ordered to pay a \$500.00 penalty to the Arkansas Real Estate Commission and complete the Arkansas Real Estate Commission eighteen (18) classroom hour Salesperson Post License Course. Respondent Minks must also complete the AREC workshop in Property Management upon availability.

Prior to his licensure as a Salesperson, on or about August 11, 2011, Respondent Minks registered Preferred Property Management, Inc. with the Arkansas Secretary of State to operate and manage rental properties owned by the corporation in which he was a principal.

Respondent Minks was issued a Real Estate Salesperson license on February 19, 2014. From February 19, 2014 to October 12, 2015, Respondent Minks was licensed with Richards Commercial Real Estate, Fort Smith, Arkansas. Respondent Minks transferred his Salesperson License to Chuck Fawcett Realty Inc, Fort Smith, Arkansas on October 12, 2015, and is presently licensed as such.

Respondent Minks, while licensed as a Salesperson with Richards Commercial Real Estate, conducted prop-

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erty management activities for another person for expectation of compensation, under the name of Preferred Property Management, Respondent's own business located at 2026 Dodson, Fort Smith, Arkansas. Respondent Minks entered into a property management contract, under the name of Preferred Property Management, with an owner of property in which Respondent had no ownership interest.

On December 17, 2015, Respondent Minks advertised property for rent with Preferred Property Management. The website listed Richards Commercial Real Estate as the Broker. Respondent Minks was not licensed with Richards Commercial Real Estate at the time of this advertisement.

Respondent(s): Sheri McBride, Salesperson (License Expired), Springdale, Arkansas, Consent Order #3418

Violation(s): A.C.A. §17-14-311(a)(2), §17-42-311(a)(4), and Commission Regulations 10.1(b), 10.5(a), 10.5(b), 10.7(a)(1), and 10.10(c).

Sanction(s): Respondent McBride's license was hereby revoked. In the event Respondent applies for a Real Estate License in Arkansas or any other state; or, engages in unlicensed real estate activity, a fine shall be imposed upon Respondent in the amount of \$5,000.00.

Respondent McBride was listed a registered agent of ABS Properties, LLC which was filed with the Arkansas Secretary of State's office on or about March 15, 2002.

In December 2012, Respondent met with owner Complainant Black of property located at 51 Nantucket Drive, Bella Vista, Arkansas to discuss an arrangement whereby Respondent would assist owner Complainant Black in the sale of the subject property. Respondent did not have the permission of her Principal Broker of Beck Haus Realtors to assist the owner in the sale of the subject property.

On or about February 2, 2013, Respondent placed an advertisement for Complainant Black's property on Craigslist.com. The advertisement included the telephone number for ABS Properties, LLC. The advertisement did not show the name of Mathias Properties, the real estate firm with which Respondent was licensed. The Respondent's Principal Broker had not given permission to the Respondent to advertise the property.

On or about February 6, 2013, tenant Complainant Brandon responded to the Craigslist advertisement. On or about February 28, 2013, owner Complainant Black and tenant Complainant Brandon entered into a Residential Lease with Option to Purchase for the property at 51 Nantucket Drive, Bella Vista Arkansas. Respondent McBride prepared the contract and conducted all activities in this transaction without the permission of her Principal Broker of Mathias Properties. Respondent McBride is not a licensed attorney and was not acting as a licensed salesperson of Mathias Properties.

On or about February 28, 2013, tenant Complainant Brandon gave Respondent cashier's check #0374735 made payable to ABS Properties, LLC in the amount of \$3,749 for one month's rent and \$3,000 for the down payment of the lease to purchase agreement for the property. The cashier's check was deposited into Respondent's checking account for ABS Properties, LLC. Respondent did not deliver the payment to her Principal Broker.

On or about February 28, 2013, Respondent tendered check #1675 in the amount of \$1,249 payable to owner Complainant Black, written on the checking account of ABS Properties, LLC for one month's rent and \$500 POA dues for 2013. On or about June 17, 2013, Respondent's Principal Broker Helmer and Designated Broker Russell learned of Respondent's transaction with owner Complainant Black and tenant Complainant Brandon. Upon request of Principal Broker Helmer, on or about June 19, 2013, Respondent emailed Designated Broker Russell a copy of check #1675 from ABS Properties, LLC to Complainant Black. The check which was emailed by Respondent had been altered to show the amount of \$3,749.

On or about January 13, 2013, Owner Complainants Edgemon of 37 Queensferry Circle, Bella Vista, Arkansas entered into a Lease Agreement with the Option to Purchase Real Estate with Respondent of ABS Properties, LLC as the tenant and potential buyer of the Complainants' property. On or about January 16, 2013, Linda Renee and Anna Cohen as tenants and potential buyers entered into a Lease Agreement with Option to Purchase Real Estate for 37 Queensferry Circle, Bella Vista, Arkansas with Respondent and ABS Properties, LLC as landlord and seller. Respondent had not obtained permission of her Principal Broker of Mathias Properties to engage in the real estate activities involving 37 Queensferry Circle, Bella Vista, Arkansas.



FORMAL HEARING DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from February 2016 through October 2016. Formal Hearing Decisions that have been appealed are not listed.



Respondent(s): James Candelaria, Salesperson, Kevin Clifton Real Estate, Inc., Van Buren, Arkansas, Consent Order #3442

Violation(s): A.C.A. §17-42-311(a)(2) and Commission Regulation 10.16(a)

Sanction(s): Respondent Candelaria was required to pay a \$500.00 penalty to the Arkansas Real Estate Commission within ninety (90) days.

On or about April 15, 2015, Respondent Candelaria entered into an Agreement Without Appearance with the Arkansas Residential Contractors Committee for performing work as a contractor while the Respondent was not a licensed residential contractor. Respondent Candelaria was sanctioned with a fine of \$4,600 which was reduced to \$2,300 if there are no further violations for three years.

Respondent Candelaria failed to report the above disciplinary action to the Commission within thirty (30) days of that action.

Respondent(s): Robert C. Malt, Principal Broker (Expired License), Malt Realty, Little Rock, Arkansas, Consent Order #3428

Violation(s): A.C.A. § 17-42-310(a)(1), § 17-42-310(b), § 17-42-311(a)(5) and Commission Regulations 6.3(b), 7.6(a), 10.7(b)(1), 10.7(b)(3), and 10.16(b)

Sanction(s): Respondent Malt was required to pay a \$1,500.00 penalty to the Arkansas Real Estate Commission within thirty (30) days and voluntarily agree to the surrender and revocation of his Arkansas Real Estate License.

On November 17, 2005, Respondent Malt registered Arkansas Land and Equipment, LLC with the Arkansas Secretary of State and listed Robert Malt whose address is 196 Silverspur Trail, Hot Springs, Arkansas, as the Registered Agent.

On September 13, 2007, Respondent Malt registered Robert Malt Construction, Inc. with the Arkansas Secretary of State and listed Robert Malt whose address is 196 Silverspur Trail, Hot Springs, Arkansas, as the Registered Agent.

On July 22, 2015, The Arkansas Residential Contractors Committee issued a Cease and Desist Order for Arkansas Land and Equipment, LLC (registered with the Arkansas Secretary of State on November 17, 2005, with Respondent Malt as Registered Agent) for violation of Arkansas Residential Licensing Law Code Annotated § 17-25-505, operating without a license. Respondent's business, Arkansas Land and Equipment, LLC, not Respondent Malt, was ordered to pay a civil penalty in the amount of \$292,000. Respondent Malt did not report the imposition of the civil penalty to the Commission within thirty days.

On September 11, 2015, The Arkansas Contractors Licensing Board revoked the Contractor's License issued to Robert Malt Construction, Inc. (registered with the Arkansas Secretary of State on September 13, 2007, with Respondent Malt as Registered Agent) for violations of Arkansas Contractor's Licensing Law Code Annotated § 17-25-308 and Regulation 224-25-8(b). A Cease and Desist Order was issued and a civil penalty assessed to Robert Malt Construction, Inc., not Respondent Malt, in the amount of \$31,477. Respondent Malt did not report the imposition of the civil penalty to the Commission within thirty days.

Prior to October 8, 2015, Respondent Malt changed the address of Malt Realty from 111 Apple Blossom Court, Hot Springs, Arkansas to 196 Silverspur Trail, Hot Springs, Arkansas. Respondent Malt verbally informed AREC Supervisor Yvonne Halstead of the new address when she scheduled an office visit. Respondent Malt was asked to complete the address change form located on AREC website and send it to AREC with the required fees within thirty days. Respondent Malt failed to do so.

On November 24, 2015, Investigator Sullentrup prepared an Office Visit Report for an office visit made to Respondent Malt's office by AREC Supervisor Halstead and Investigator Sullentrup on October 8, 2015. Three

(continued on page 11)



FORMAL HEARING DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from February 2016 through October 2016. Formal Hearing Decisions that have been appealed are not listed.



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closed transaction files were reviewed and it was found they did not contain HUD-1 or closing statements. Respondent Malt stated Attorney Skip Davidson closed the transactions and he would obtain the prepared settlement sheets and forward them to AREC. One of the closed transaction files did not contain a Listing Agreement. The three pending transaction files reviewed did not contain a Listing Agreement. Respondent Malt stated he had a “Mass Listing Agreement”, but was not able to locate a copy of that agreement. AREC Supervisor Halstead requested Respondent forward the missing information to AREC within thirty days. Respondent Malt did not supply the HUD-1 statements or Mass Listing Agreement as requested.

On November 25, 2015, Investigator Sullentrup mailed a letter to Respondent Malt and requested he provide the missing Settlement Statements and the “Mass Listing Agreement”. Investigator Sullentrup also requested notification of the decisions of the Arkansas Contractor’s Licensing Board on July 22, 2015, and September 11, 2015, and a letter of explanation no later than December 7, 2015. Respondent Malt did not reply as requested.

Respondent Malt’s Broker License expired January 1, 2016. On January 28, 2016, a website, www.maltrealty.info included advertisements for properties listed with Malt Realty. The website listed Executive Broker Kris Tortorice and Salesperson Kathy Bonner as licensed with Malt Realty. Executive Broker Tortorice’s license had previously been transferred to Lake Hamilton Realty on April 6, 2015. Salesperson Bonner’s license had previously been transferred to Sperry Van-Ness Ark Best Realty on April 28, 2015. Upon an internet search July 26, 2016, the website, www.maltrealty.info had been removed from the internet.

The following individuals were found in violation of § 17-42-311(a)(2) and Commission Regulation 10.16—failure to report. By Consent Order, each was fined \$250.00, payable to AREC.

- Bridgett Hall, Salesperson, Rausch Coleman Realty Group, Fayetteville, Arkansas, Consent Order #3422
- Ronald David Rast, Salesperson, McKimmey Associates, Realtors, North Little Rock, Arkansas, Consent Order #3452
- Kenneth Bain Noisewater, Salesman, Crye-Leike Realtor—Fayetteville, Fayetteville, Arkansas, Consent Order #3420
- Quincy Cordell Holloway, Salesperson, Keller Williams Realty, Little Rock, Arkansas, Consent Order #3413
- Georgia Sue Landry, Principal Broker, RealHome Services and Solutions, Inc., Memphis, Tennessee, Consent Order #3436
- Vicki Bronson, Executive Broker, Crye-Leike Realtors – Bentonville, Bentonville, Arkansas, Consent Order #3415

Changes Coming for Post-License Education

At the March 13, 2017 business meeting of the Arkansas Real Estate Commission, the Commissioners voted to reduce the time of completion of post-license education for new salespersons and brokers from twelve (12) to six (6) months.

Current plans are to hold a public hearing on July 10, 2017 at the Real Estate Commission. The July agenda with the specific time along with other information about the amendment will be posted on the AREC website at www.arec.arkansas.gov.