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KENTUCKY REAL ESTATE COMMISSION
Complaint Review Committee

MEETING MINUTES

June 16, 2021

1:30 p.m.

*** This meeting occurred via Zoom Teleconferencing, pursuant to KRS 61.826***

Committee Members Present

Commissioner Larry Disney
Commissioner Anthony Sickles

KREA Staff

John Hardesty, General Counsel
Brian Travis, Investigator
Angie Reynolds, Board Administrator

Call to Order and Guest Welcome

A meeting of the Complaint Committee was called to order by Commissioner Carter at 1:36 p.m. on June 16, 2021.

Executive Session Case Deliberations

Commissioner Disney made a motion for the Complaint Committee to enter executive session, pursuant to KRS 61.815(1) and 61.810(1)(c) and (1)(j) at 1:36 p.m. to discuss proposed or pending litigation and deliberate on individual adjudications in:

- 19-C-095
- 19-C-098
- 19-C-100
- 19-C-102
- 19-C-103
- 19-C-104
- 20-C-002
- 20-C-003
- 21-C-003
- 21-C-008
- 21-C-009
- J.W. Unlicensed
Brokerage Response
Letter

Commissioner Sickles seconded the motion and the meeting was ordered into executive session discussion.



Reconvene in Open Session

At 4:01 p.m. Commissioner Cline motioned for the Complaint Committee to come out of executive session. Commissioner Carter seconded the motion to come out of executive session.

Committee Recommendations

Commissioner Carter made a motion for the Complaint Committee to recommend disposition of the following cases to the full Commission in the following manner. Commissioner Cline seconded the motion. Having all in favor, the motion carried.

Final Adjudications

1. **19-C-095** – Complainant claims that they purchased a second-floor condominium and since learned that when it rains, their balcony leaks significant amounts of rainwater to the condo directly below. Complainant claims these issues were an ongoing problem between the previous owner of her condo (the seller) and the property owner on the lower floor. They claim the Respondents were aware of the leaking issues, including the leaking and damage to the condo below, and the seller did not disclose this issue on the Seller's Disclosure form.

It appears the sellers attempted to disclose the issue with the balcony by checking "Yes" to issues with the exterior and reporting the balcony had been replaced. It appears they and Respondents engaged in significant effort to ensure the balcony was appropriately repaired before sale and, up to and including closing day, they had not experienced or been notified of additional issues with the balcony.

The Commissioners believe Respondents satisfied their duties and did not violate KRS 324.160. **The Committee recommends to the full Commission to dismiss the complaint.**

2. **19-C-100** – The Complainant claims he was approached by an agent interested in buying property where his gym was located. The agent was a member of a church, which wanted to buy the property. Complainant claims part of the negotiated deal included a non-disclosure agreement, which Respondent and the church subsequently violated when it publicized the sale of the property immediately after purchase. Complainant claims he sustained significant damages to his business as a result, and alleged Respondent committed violations.

The evidence establishes Complainant knew of the alleged violations, at the latest, in January 2017, well beyond the then-existing two year statute of limitations. **The Committee recommends to the full Commission to dismiss the complaint because it was filed more than two years after Complainant knew of the cause of action.**

3. **21-C-003** – The Complainant filed this complaint against his condo association management company and claims that they failed to make the residents aware in December 2020 of large increases to the HOA dues. Because the complaint did not state a violation against a real estate licensee or identify a licensee who allegedly committed a violation, and because KREC does not have jurisdiction over community association managers, KREC requested a sworn supplement from complainant. Complainant did not provide one. **The Committee recommends to the full Commission to dismiss the complaint.**
4. **21-C-008** – The Complainant claims that at closing, the buyers demanded more money and then bullied him and his agent into paying it. He agreed to pay, alleging that that the buyers threatened to back out of the deal if the amount was not paid. When asked for additional information through a request for sworn

supplement to order to establish a prima facie violation against a licensee, Complainant failed to provide a supplemental statement. **The Committee recommends to the full Commission to dismiss the complaint.**

5. **21-C-009** - The Complainant claims to be a tenant of a house listed for sale with the Respondent. She claims the Respondent would not give her 24 hours' notice before bringing someone to see the house. In addition, Complainant claims Respondent harassed her to move out sooner than previously agreed. When asked for additional information through a request for sworn supplement to attempt to establish a prima facie case, Complainant failed to provide a supplemental statement. **The Committee recommends to the full Commission to dismiss the complaint.**
6. **J.W. Unlicensed Brokerage Response Letter** – The subject broker, J.W., had been suspended from practice for three years for licensing law violations beginning in October 2020. Evidence was discovered the broker may still be engaged in brokerage activity, but this proved to be unfounded. However, social media sites (Facebook, LinkedIn), association webpages, and brokerage web pages continued to suggest the broker was an active licensee. The Commission sent a cease and desist letter to the principal broker and suspended broker demanding they immediately cease from such activity and provide an explanation as to why that information continued to appear on certain sites. Both the principal broker and suspended broker immediately complied, removed the remaining information cited by the Commission, and explained some of it was due to an old website for a realtor association, while other was simple oversight by the principal and suspended broker. Based on the principal and suspended broker's responses to the Commission's cease and desist letters, **the Committee recommends to the full Commission that no further action needs to be taken at this time.**

Pending Actions

7. **19-C-098** - The Committee recommends to the full Commission to refer the case for further investigation.
8. **19-C-102** - The Committee found evidence of violations and recommends a formal reprimand, a \$500 fine, and 6 hours of CE in Advertising in addition to existing CORE requirements against the first Respondent (H.S.) The Committee recommends to the full Commission to dismiss the complaint against the second Respondent, K.G., who did not appear to have any involvement with this property.
9. **19-C-103** - The Committee recommends to the full Commission to refer the case for further investigation.
10. **19-C-104** –The Committee found evidence of violations and recommends a formal reprimand, a \$1000 fine per violation, and 6 hours of CE in law in addition to existing CORE requirements. Recovery Fund is at issue.
11. **20-C-002** - The Committee recommends to send the complaint to Respondent for a sworn answer.
12. **20-C-003** - The Committee found evidence of violations and recommends a formal reprimand, a \$500 fine, and 6 hours of CE in advertising in addition to existing CORE requirements.

A cease and desist letter will be sent to the Respondent's wife regarding her conduct bordering on unlicensed brokerage.

Meeting Adjournment

Commissioner Sickles made a motion to adjourn the meeting of the Complaint Committee. Commissioner Disney seconded the motion. There being no objection, the meeting was adjourned at 3:15 p.m.

Next Scheduled Meeting

The next regular meeting of the Kentucky Real Estate Commission's Complaint Review Committee is to be determined.

Approved