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KENTUCKY REAL ESTATE COMMISSION
Complaint Review Committee

MEETING MINUTES

May 19, 2021

1:30 p.m.

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

Committee Members Present

Commissioner Steve Cline
Commissioner Raquel Carter

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 May 19, 2021.

Committee Meeting Minutes

Commissioner Carter made a motion to approve the **April 13, 2021** Complaint Committee Meeting Minutes. Commissioner Cline seconded the motion. With all in favor, the motion carried.

Executive Session Case Deliberations

Commissioner Carter 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:

- 17-C-003
- 18-C-022
- 19-C-002
- 19-C-091
- 19-C-080, 20-C-019, 20-C-028
- 21-C-011

Commissioner Cline 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. **18-C-022** – The Complainant’s primary claim is that Respondent misrepresented the square footage of the subject property, which caused issues with the value of the property and ultimately caused Complainant to not buy the property. The Complainant did not receive his earnest money deposit back.

The evidence establishes that the Respondent did not commit licensing law violations and properly represented both the sellers and Complainant. Specifically, Respondent was honest and transparent during her dealings with Complainant, multiple appraisals were done on the property, which from the evidence was very difficult to measure, and Respondent even went to the property and personally measured it when discrepancies arose between multiple appraisers’ measurements. The issue of Complainant’s earnest money deposit is a contract dispute between him and the sellers, and does not involve or implicate the Respondent in the absence of evidence of wrongdoing by Respondent. **The Committee recommends to the full Commission to dismiss the complaint.**

2. **19-C-091** – The Complainant claims he agreed to pay to move a fence on property he was selling that adjoined his current property so that the fence was on the actual property line after a survey revealed the fence encroached onto the parcel he was selling, but was told from the fence contractor that Respondent, his agent, contacted the contractor about the cost for adding a gate to the fence for the buyers, too. Complainant claims he did not agree to pay for this additional expense. He also claims Respondent committed violations in causing delays to closing and other issues.

The evidence here does not establish violations of KRS 324.160 on the part of Respondent. He appears to have exercised reasonable care and diligence, communicated regularly with Complainant, followed his instructions, made the required disclosures, and took care of matters at the property for Complainant and his wife, who lived out of state. While Respondent contacted the fence company about adding a gate, it was to get a quote for the buyers so they could determine if they wanted to pay to add it. Moreover, the delays in closing were not caused by Respondent, but instead were caused by Complainant’s failure to disclose, or lack of knowledge,

that the fence encroached onto the parcel he was selling, which required relocation of the fence. **The Committee recommends to the full Commission to dismiss the complaint.**

Pending Actions

3. **17-C-003 – The Committee found evidence of violations and recommends a Formal Reprimand against both of the agent Respondents, in addition to a \$1,000 fine, 30-day suspension (probated for one year), and CORE CE in addition to existing CORE requirements.**

The Committee recommends to the full Commission to dismiss the claims against the Principal Broker with a letter of caution regarding the supervision of his agents.

4. **19-C-002 – Complainant recently notified KREC the matter has been resolved to his satisfaction and he requested a withdrawal of the complaint. Due to the evidence of violations here, the Committee recommends to the full Commission to reject the request to withdraw the complaint and issue a formal reprimand against the Respondent regarding failure to comply with KREC’s record retention policy and escrow account laws.**
5. **19-C-080, 20-C-019, 20-C-028 - In response to these complaints and due to the troubling allegations of ongoing escrow account violations, the Kentucky Real Estate Commission issued an Emergency Order Suspending License at its May 2020 meeting in order to summarily suspend the license of the Respondent in 19-C-080 and 20-C-019, pending a final hearing in the two complaints against him, which became effective on June 10, 2020.**

That Respondent was served with the Emergency Order Suspending License and the complaints against him. To date, he has not requested an emergency hearing or filed sworn answers in response to the complaints, though he provided KREC with interviews.

In addition, one Complainant filed a complaint against the Respondent’s principal broker and grandfather, alleging failure to properly supervise the Respondent’s activities and potential involvement in the alleged wrongdoing. The Respondent’s grandfather/principal broker passed away during KREC’s investigation into the complaint against him.

KREC recently concluded its investigation into these three cases. Below are the Committee’s recommendations for each case.

- a) **Case No. 19-C-080 – The Committee found evidence of escrow account and other licensing law violations, as well as potential fraud, in this case. The Committee recommends to refer the case to a hearing to permanently revoke the Respondent’s license. Because Complainant has been compensated for its damages through other means, this case does not implicate the Recovery Fund.**
- b.) **Case No. 20-C-019 - The Committee found evidence of escrow account violations, other licensing law violations, and potential fraud in this case. It recommends to refer the**

case to a hearing to permanently revoke the Respondent's license and for recovery fund proceedings in light of the Respondent's claimed damages and evidence of fraud.

c). **Case No. 20-C-028** - The Complaints claim that the Principal Broker had knowledge that the Licensee was committing licensing law violations and did nothing. Since then the Respondent has passed away. **The Committee recommends to dismiss due to death of the only Respondent. However, the Committee recommends to initiate a complaint against the Respondent's grandmother, who is the principal broker of another brokerage, for allowing the Respondent to use and access her company's escrow accounts and failing to take action to stop it when he was not, in fact, affiliated with her brokerage, and for other involvement in potential wrongdoing.**

6. **21-C-011** - **The Committee recommends to the full Commission to refer the case for further investigation.**

Meeting Adjournment

Commissioner Cline made a motion to adjourn the meeting of the Complaint Committee. Commissioner Carter seconded the motion. There being no objection, the meeting was adjourned at 4:04 p.m.

Next Scheduled Meeting

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