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**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

MAY 29 2013

Kevin Westray, Legal Assistant

GEORGIA REAL ESTATE)	
COMMISSION,)	
Petitioner,)	DOCKET NO.
)	OSAH-GREC-SAN-1333088-60-Teate
)	
v.)	GREC # 10C0519
)	
JEFFREY ALLEN VOSS,)	
License No. B157817,)	
)	
and)	
)	
LAKESHORE REAL ESTATE)	
MARKETING AND SERVICES,)	
License No. H43812,)	
Respondents.)	

INITIAL DECISION

I. Introduction

Petitioner, Georgia Real Estate Commission (“Commission”), seeks to impose sanctions against real estate broker’s licenses of Respondents, Jeffrey Allen Voss (“Voss”) and Lakeshore Real Estate Marketing and Services (“Firm”). An evidentiary hearing took place on April 24, 2013. Based upon the evidence presented at the hearing, it is the initial decision of the undersigned Administrative Law Judge that Voss and the Firm be reprimanded for two substantive violations and to pay a \$500.00 fine for each of the two substantive violations, a total of \$1,000.00 each.

II. Findings of Fact

1. Voss and the Firm are licensed real estate brokers (B157817 and H43812, respectively) in the State of Georgia. From March 23, 2001 through March 31, 2009, Voss was the qualifying broker for Firm. The Firm’s real estate broker’s license lapsed with the Commission on April 1, 2009 and has since continued in a lapsed status. From April 1, 2009 through June 30, 2009 and June 7, 2011 through June 15, 2011, Voss’s real estate broker’s license was on inactive status with the Commission. During the periods from July 1, 2009 through June 7, 2011, Voss’s real estate broker’s license was affiliated with The Simpson Company, Inc. (H18376), a corporate broker. Since June

15, 2011, Voss's real estate broker's license has been affiliated with Realco Brokers, Inc. (H45120), a corporate broker. (Testimony of Joann Newton, Investigator; Petitioner's Exhibits 1 and 2).

2. On or about August 22, 2006, the Firm, seller, and O. Martin, buyer, entered into a Purchase and Sale Agreement (hereinafter the "Agreement") for certain real property located at 1806/1810 Moore Lane, Gainesville, Georgia (hereinafter referred to as the "Moore Lane Transaction"). Voss signed the Agreement on behalf of the Firm, a sole proprietorship for whom he was the qualifying broker. In so signing, Voss failed to include the six digit license number issued by the Commission to the Firm in the Agreement. Voss utilized his own license number rather than that of the Firm. (Testimony of Joann Newton; Petitioner Exhibits 2 and 4).

3. In the Moore Lane Transaction, Voss and the Firm conducted business in the name of "Lakeshore Real Estate Broker" and "Lakeshore Real Estate Brokerage" while the name registered with the Commission for the Firm was "Lakeshore Real Estate Marketing and Services." The Agreement itself references the incorrect name on pages one, two, and seven with no reference to the correct name for the Firm. (Testimony of Joann Newton; Petitioner's Exhibits 2 and 4).

4. Olivia Martin, the Purchaser in the Moore Lane Transaction, initiated the Commission's investigation with the filing of a complaint on September 30, 2009 after Voss refused to refund the \$1,000.00 earnest money that she had paid. (Testimony of Olivia Martin; Testimony of Joann Newton; Petitioner's Exhibits 4, 7, and 16).

5. Voss argued that the Commission's rules were "broken" inasmuch as he lacked the ability to effectively defend himself against the Purchaser's claims since Commission rules allow destruction of such documents after retaining them for three years. He destroyed such documents as allowed. Although he insisted that there were several revisions to the Agreement, he reluctantly could not deny that his signature was on the copy of the Agreement that the Purchaser provided during the Commission's investigation. (Testimony of Jeffery Voss; Petitioner's Exhibit 4).

III. Conclusions of Law

1. The Commission has full power to regulate the issuance of real estate broker's licenses and to discipline real estate brokers. O.C.G.A. § 43-40-14 (2012). Whenever a licensee is determined to have violated the rules and regulations of the Commission, the Commission is authorized to impose sanctions such as revocation, suspension, monetary assessment for the cost of the Commission's legal fees, and/or fines not to exceed \$1,000.00 for each violation. O.C.G.A. § 43-40-25 (a) (2012). When a licensee acts in a real estate transaction as a principal or as an officer, employee, or member of a firm or any other entity acting as a principal, the Commission may impose any permitted sanction if the licensee violates any of the provisions of O.C.G.A. Chapter 43-40 and its attendant rules and regulations. O.C.G.A. § 43-40-25 (d) (2012).

2. "A broker shall not conduct business under any name other than the one in which the broker's license is issued." Ga. Comp. R. & Regs 520-1-.07 (1) (2005). In the Moore Lane Transaction, Voss conducted business on behalf of the Firm and incorrectly identified the Firm as "Lakeshore Real

Estate Broker” on the only three pages on the Purchase and Sale Agreement where the name of the Firm would be inserted. A real estate broker is held responsible for any licensee whose license is affiliated with the broker. Ga. Comp. R. & Regs 520-1-.07 (2) (a) (2005). Voss, a real estate broker, acted as agent for the Firm, a real estate broker. Both were affiliated and responsible for each other’s actions. Each committed a substantive violation of Ga. Comp. R. & Regs. 520-1-.07 (10) (2005).


3. In preparing or signing an offer to purchase, sell, lease or exchange real property, a licensee shall include the license number issued by the Commission of each licensee participating in the transaction. Ga. Comp. R. & Regs 520-1-.10 (1.1) (2005). Voss failed to identify the license number of the Firm in the Purchase and Sale Agreement. He listed his own license number by an incorrect name of the Firm on page seven. Voss’s failure to list the license number of the Firm constituted a substantive violation of Ga. Comp. R. & Regs 520-1-.10 (1.1) (2005) for Voss and the Firm.

4. An agency bears the initial burden of proof except that a licensee has such a burden regarding any affirmative defenses raised. Ga. Comp. R. & Regs. 616-1-2-.07 (1) (a). The standard of proof is preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4). The Commission met its burden with evidence showing that Voss and the Firm violated two substantive violations. Arguments raised by Voss are not affirmative in nature and do not relate to the execution of the agreement in the Moore Lane transaction.

IV. Decision

Voss and the Firm violated Ga. Comp. R. & Regs 520-1-.07 (1) (2005) by conducting business under a name other than the one in which the Firm’s license is issued. Further, Voss and the Firm violated Ga. Comp. R. & Regs 520-1-.10 (1.1) (2005) by failing to include the Firm’s license number on a purchase and sales agreement as required. Based on the foregoing findings of fact and conclusions of law, Voss and the Firm shall receive written public reprimands for these two substantive violations. Additionally, Voss and the Firm are and directed to pay to the Commission a \$500.00 fine for each of the two substantive violations, a total of \$1,000.00 each.

SO ORDERED, this 29th day of May 2013.



Steven W. Teate
Administrative Law Judge