

**BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION**

**IN RE: Resident Broker/Salesperson License of Kimberly Foster (Moody) (#16231)**

**ORDER**

THIS CAUSE came before the Mississippi Real Estate Commission (sometimes hereinafter "Commission") pursuant to authority of §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended. The Commission conducted a hearing on the formal Notice of Administrative Closure of License File served upon Kimberly Foster (now Kimberly Foster Moody), Broker/Salesperson, at its offices at 4780 I-55 North, Jackson, Mississippi, on Tuesday, October 13, 2020. Licensee Kimberly Foster Moody was present at the hearing. The Commission recognized its quorum and opened the hearing. The hearing was conducted with documentary evidence being admitted as exhibits and the verbatim transcript of the hearing being taken by an official court reporter. The Commission issues its Findings of Fact, Conclusions of Law and issues its Order as set forth hereinafter based upon evidence that was clear and convincing.

**FINDINGS OF FACT**

**I.**

The Mississippi Real Estate Commission is charged by Mississippi law with the regulation of the licensing and practice of real estate brokers in Mississippi, including qualifications for initial and renewal licensure, pursuant to the Real Estate Brokers License Law of 1954, §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended. Pursuant to this authority, the Commission has jurisdiction over the parties and of the subject matter herein.

## II.

Kimberly Foster Moody (sometimes hereinafter "Foster") is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 10603 Antioch Rd., Vancleave, Mississippi 39565. Foster is the holder of a real estate Broker/Salesperson's license, no. 16231, issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, as such, she is subject to all of the provisions, rules, regulations and statutes governing the practice of real estate and licensing of real estate brokers under Mississippi law.

## III.

Kimberly Foster (Moody), Broker/Salesperson, was served with a written Notice of Administrative Closure of License File from the Commission which notice was dated September 24, 2020. At the time of service of said notice, Foster's license status was "inactive," Foster having voluntarily placed her license in inactive status on or about July 17, 2018. On the October 13, 2020 date of the Commission hearing, Foster's license remained in inactive status. Documentary evidence of Foster's inactive status obtained from the Commission's licensee database was admitted into evidence at the Commission hearing.

## IV.

Pursuant to a fingerprint-based background check mandated by Miss. Code Ann. §73-35-10, the Commission obtained evidence of a felony record of Kimberly Foster. Subsequently, the Commission obtained documentary evidence of Foster's January 17, 2019 felony conviction and sentence for "Conspiracy to Commit Anti-Trust Violations" (15 U.S.C. §1) in the United States District Court, Southern District of Mississippi, amended May 24, 2019, Case No. 1:18cr98LG-JCG-001. A copy of the May 24, 2019 *Amended Judgment in a Criminal Case* setting forth Foster's

felony conviction and sentence was obtained from the United States District Court, Southern District of Mississippi, and admitted into evidence at the Commission hearing.

### CONCLUSIONS OF LAW

#### VI.

The Commission finds, upon clear and convincing evidence introduced at the Commission hearing of this cause, the above and foregoing described facts and actions of Kimberly Foster (Moody) constitute violations of the Real Estate Brokers License Law of 1954, §§73-35-1, *et seq.*, Miss. Code Ann. (1972); as amended, and, more specifically, Miss. Code Ann. §73-35-10, and §73-35-21 which provide, in relevant parts:

#### §73-35-10(2)

(a) The commission must ensure that applicants for real estate licenses do not possess a background that could call into question public trust. An applicant found by the commission to possess a background which calls into question the applicant's ability to maintain public trust shall not be issued a real estate license.

(b) The commission shall not issue a real estate license if:

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(ii) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic or foreign court:

1. During the five-year period immediately preceding the date of the application for licensing; or
2. At any time preceding the date of the application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

#### §73-35-21(1)

The commission may, upon its own motion ... hold a hearing for the refusal of license or for the suspension or revocation of a license previously issued, or for such other action as the commission deems appropriate. The commission shall have full power to refuse a license for cause or to revoke or suspend a license ... where the licensee ... is deemed to be guilty of:

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(g) Entering a guilty plea or conviction in a court of competent jurisdiction of this state, or any other state or the United States of any felony;

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(n) Any act or conduct, whether of the same or a different character ... which constitutes or demonstrates bad faith, ... untrustworthiness, or dishonest, fraudulent or improper dealing.

ORDER

Having issued its Findings of Fact and Conclusions of Law based upon clear and convincing evidence introduced at the Commission hearing of the above styled cause, the Commission hereby issues its Order as follows:

1. The license of Kimberly Foster (Moody), Broker/Salesperson, currently in inactive status, shall not be reactivated or renewed and the Commission license file for Kimberly Foster (Moody), No. 16231, shall be and is hereby CLOSED.

This Order shall become effective thirty (30) days from the date of this Order.

This the 6 day of November, 2020.

MISSISSIPPI REAL ESTATE COMMISSION

By: 

KEN AUSTIN, Chairperson, For and on Behalf of the  
Mississippi Real Estate Commission

