

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 01-1901

GEORGE DUKE LODEN, BROKER

RESPONDENT

AGREED ORDER

This cause came before the Mississippi Real Estate Commission (sometimes hereinafter "Commission") pursuant to authority of Miss. Code Ann. §73-35-1, et seq. on a formal complaint brought against Respondent George Duke Loden, Broker. Prior to a hearing before the Commission, it was announced that an agreement was reached as to the resolution of the matters alleged and any disciplinary actions that may be imposed upon the Respondent, George Duke Loden, Broker. This agreement is in lieu of further disciplinary proceedings on this Complaint. By entering into this Agreed Order, Respondent George Duke Loden waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that hearing. Having reached an agreement on the matter, the Commission issues this, its Findings of Fact, Conclusions, and Disciplinary Order as follows:

I.

Respondent George Duke Loden, sometimes hereinafter called "Respondent Loden" is an adult resident citizen of Mississippi whose last known address of record with the Commission is 2637 Woodglen Dr., Belden, MS 38826. Respondent Loden is the holder of a real estate broker's license issued by the Commission pursuant to Miss. Code Ann. §73-35-1, et seq., as amended and, as such, he is subject to all provisions, rules, regulations and statutes governing the sale and transfer of real estate and licensing of real estate brokers under Miss. law.

II.

This case began over the Commission's receipt of a written notice of change of business address from Respondent Loden. Preliminary investigation revealed that Respondent Loden was operating a real estate company under a company name not licensed by the Commission and, further, that advertising under an unlicensed company name has also occurred. Thereafter, the Commission opened its full investigation of the matter.

III.

Investigation showed that Respondent Loden had a company license issued by the Commission to "Century Construction and Real Estate, Inc." in 2001. Respondent Loden has represented and displayed, through advertising, the firm name of Century Commercial Real Estate Services including showing same on different documents. This entity was never licensed as a company with the Commission. Records show that the Respondent's real estate activities have only recently become licensed under the entity name that Respondent Loden has been using for years.

IV.

The above and foregoing described acts and omissions of the Respondent constitutes violations of the Mississippi Real Estate Brokers License Act of 1954, as amended, §73-35-1, et seq., Miss. Code Ann., and the Rules and Regulations of the Commission, and, more specifically, M.C.A. §73-35-6, §73-35-21(1)(a), (c), (d) and (n), and Commission Rules 1.1 F., 3.3 and 4.2 G(5) which provide, in relevant parts:

§73-35-6 Licenses for business entities; A corporation, partnership, company or association shall be granted a license when individual broker's licenses have been issued to every member, owner, partner or officer of such partnership, company, association or corporation who actively participates in its brokerage business and when any required fee is paid.

§73-35-21(1)(A) Making any substantial misrepresentation in connection with a real estate transaction;

§73-35-21(1)(C) Pursuing a continued and flagrant course of misrepresentation..... through agents or salespersons or any medium of advertising or otherwise;

§73-35-21(1)(D) any misleading or untruthful advertising;

§73-35-21(1)(N) Any act or conduct, whether of the same or a different character than hereinabove specified, which constitutes or demonstrates incompetency... or improper dealing...

Rule 1.1 Applying for a License

F. If a corporation has been chartered by the state of Mississippi, the license will be issued in the corporate name except that no license will be issued for a corporation, company, or trade name where there exists in that county or trade area a real estate broker or real estate agency having a substantially similar name.

Rule 3.3 Advertising

A. "Advertising" means the use of any oral, written, visual, printed or electronically generated advertisement by a real estate licensee or other person on behalf of a real estate licensee.