

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

IN RE: Resident Salesperson License of Noel Rodriguez (#S-50649)

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 Noel Rodriguez, Salesperson, at its offices at 4780 I-55 North, Jackson, Mississippi, on Tuesday, October 13, 2020 at approximately 11:00 a.m. Licensee Noel Rodriguez was noticed to appear but was not present at the hearing and had no counsel present. 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.

Noel Rodriguez (sometimes hereinafter "Rodriguez") is an adult resident citizen of Mississippi, whose last known address of record with the Commission is 320 Purvis St., Purvis, Mississippi 39475. Upon information and belief, Rodriguez is currently in custody of the Mississippi Department of Corrections, Inmate #229633, c/o CMCF Superintendent Ron King, 3794 Hwy. 468, Pearl, Mississippi 39208. Rodriguez is the holder of a real estate salesperson's license, no. S-50649, issued by the Commission pursuant to §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the practice of real estate and licensing of real estate brokers and salespersons under Mississippi law.

III.

Noel Rodriguez, Salesperson, was served with a written Notice of Administrative Closure of License File from the Commission which notice was dated September 15, 2020. Said notice was served by service upon Noel Rodriguez, Inmate #229633, c/o CMCF Superintendent Ron King, 3794 Hwy. 468, Pearl, Mississippi 39208. At the time of service of said notice, Rodriguez' license status was "inactive," Rodriguez having voluntarily placed his license in inactive status on or about January 12, 2017. On the October 13, 2020 date of the Commission hearing, Rodriguez' license remained in inactive status. Documentary evidence of Rodriguez' 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 2020 felony guilty plea of Noel Rodriguez. Subsequently, the Commission obtained documentary evidence of Rodriguez' August 3, 2020 guilty plea, and subsequent conviction and sentence for "fondling," handed down in the Circuit Court of Lamar County, Mississippi, Cause No. 37:20CR078AM-BT. A copy of the September 3, 2020 *Corrected Order of Conviction and Sentence* setting forth Rodriguez' felony conviction and sentence was obtained from the Circuit Court of Lamar County and admitted into evidence at the Commission hearing.

V.

Commission records do not reflect Noel Rodriguez voluntarily notified the Commission of his August, 2020 felony guilty plea or subsequent conviction and sentence as required by Rule 5.1B of the Commission Rules and Regulations. Rodriguez had a continuing duty to truthfully disclose the status of his criminal record to the Commission.

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 and omissions of Noel Rodriguez constitute violations of the Real Estate Brokers License Law of 1954, §§73-35-1, *et seq.*, Miss. Code Ann. (1972), as amended, and the Rules and Regulations of the Commission and, more specifically, Miss. Code Ann. §73-35-10, §73-35-21 and Rules 3.1F and 5.1B 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:

(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;...

§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:

(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;

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

Rule 3.1F Any licensee ...who fails or neglects to abide by Mississippi Real Estate Commission's Rules and Regulations shall be deemed, prima facie, to be guilty of improper dealing.

Rule 5.1B Every licensee shall, within ten days, notify the Real Estate Commission of any adverse court decisions in which the licensee appeared as a defendant.

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 Noel Rodriguez, Salesperson, currently in inactive status, shall not be reactivated or renewed and the Commission license file for Noel Rodriguez, No. S-50649, 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