

Hearing No. 161627

In the Matter of	§	Before the Texas Real
Mark Fermin Flores	§	Estate Commission
Dallas, Texas	§	("Commission")
	§	
Texas Real Estate Sales Agent	§	Sitting In Austin,
License No. 529124	§	Travis County, Texas

Agreed Order

On September 19, 2017, Mark Fermin Flores ("Respondent") was notified of allegations against him. In order to conclude this matter, Respondent admits to the truth of the following Findings of Fact and Conclusions of Law and agrees to the entry of this Order and assessment of an administrative penalty.

Facts Relevant to All Counts

1. Respondent is a licensed Texas real estate sales agent, was a Texas real estate sales agent at all times relevant to this matter, and performed an act in Texas constituting an act of a sales agent as defined under Section 1101.002(1), Texas Occupations Code.

Count I
Findings of Fact

2. On or about July 2007, Respondent began leasing and managing real property located at 9475 Mulberry Path, San Antonio, Texas, for Kavita Bhatia ("Owner").
3. At one or more times during his management of Owner's property, Respondent failed to pay the monthly rent to owner or account for the security deposit when his agreement to manage Owner's property was terminated.
4. At one or more times during his management of Owner's property, Respondent failed to provide Owner with monthly accountings of the rent and other money collected and disbursed on Owner's behalf.
5. During his leasing and management of Owner's property, Respondent used lease agreements that were not authorized by The Real Estate License Act, Chapter 1101, Texas Occupations Code, or 22 Texas Administrative Code Chapter 537.
6. Respondent has addressed the issues raised by Owner and now understands proper form usage requirements.

Conclusions of Law

The acts and omissions on the part of Respondent set out in the Findings of Fact constitute the following violations that are cause for the suspension, revocation, or reprimand of Respondent's Texas real estate sales agent license pursuant to the specific statutes and rules cited below and/or Section 1101.656, Texas Occupations Code, and are further cause for the assessment of an administrative penalty against Respondent pursuant to Section 1101.701, Texas Occupations Code:

7. Section 1101.652(b)(1), Texas Occupations Code, by acting negligently or incompetently, while acting as a broker or sales agent;
8. Section 1101.652(b)(9), Texas Occupations Code, by failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person;
9. Section 1101.654(a)(1), Texas Occupations Code, by drafting an instrument, other than a form described by Section 1101.155, that transfers or otherwise affects an interest in real property; and
10. 22 Tex. Admin. Code §535.146(c)(6) by failing to provide a monthly accounting of activity in a trust account.

Count II **Findings of Fact**

11. On or about April 22, 2016, a complaint against Respondent was filed with Petitioner and Petitioner subsequently opened an investigation against Respondent.
12. On or about July 1, 2016, and August 1, 2017, Respondent was asked to provide information and documentation in connection with the complaint under investigation by Petitioner.
13. Respondent failed to respond to Petitioner's request for information and documentation.
14. Respondent now understands that he is required to respond and fully cooperate in any Commission complaint investigation.

Conclusions of Law

The acts and omissions on the part of Respondent set out in the Findings of Fact constitute the following violations that are cause for the suspension, revocation, or reprimand of Respondent's Texas real estate sales agent license pursuant to the specific statutes and rules cited below and/or Section 1101.656, Texas Occupations Code, and are further cause for the assessment of an administrative penalty against Respondent pursuant to Section 1101.701, Texas Occupations Code:

15. Section 1101.652(a)(4), Texas Occupations Code, by failing to provide, within a reasonable time, information requested by the Commission that

relates to a formal or informal complaint to the Commission that would indicate a violation of this chapter; and

16. Section 1101.652(a-1)(2), Texas Occupations Code, by failing or refusing to produce on request, for inspection by the Commission or a Commission representative, a document, book, or record that is in the license holder's possession and relates to a real estate transaction conducted by the license holder.

Count III **Findings of Fact**

17. Beginning in approximately July 2007, Respondent began leasing and managing property owned by Kavita Bhatia.
18. On or about January 15, 2010, Respondent formed a limited liability company called Goco Group, LLC.
19. On March 4, 2010, Goco Group, LLC obtained a real estate broker entity license from the Texas Real Estate Commission, License No. 602937, and Respondent began managing Kavita Bhatia's property through the business entity.
20. On March 31, 2013, the Texas real estate broker entity license of Goco Group, LLC expired.
21. Although the Goco Group, LLC license had expired on March 31, 2013, Respondent continued to lease and manage Kavita Bhatia's property in the name of GoCo Group, LLC until Ms. Bhatia terminated their management of her property in early 2016.
22. Respondent now understands that any business entity that engages in real estate brokerage activities must be licensed by the Commission when performing any of those activities.

Conclusions of Law

The acts and omissions on the part of Respondent set out in the Findings of Fact constitute the following violations that are cause for the suspension, revocation, or reprimand of Respondent's Texas real estate sales agent license pursuant to the specific statute cited below and/or Section 1101.656, Texas Occupations Code, and are further cause for the assessment of an administrative penalty against Respondent pursuant to Section 1101.701, Texas Occupations Code:

23. Section 1101.652(b)(26), Texas Occupations Code, by establishing an association by employment or otherwise with a person other than a license holder if the person is expected or required to act as a license holder.

Count IV
Findings of Fact

24. Between March 10, 2015 and January 29, 2016, Respondent was sponsored by VIP Premier Realty Corp., a Texas licensed real estate broker.
25. During the time Respondent was sponsored by VIP Premier Realty Corp., Respondent engaged in leasing and property management activities for on behalf of Kavita Bhatia and others.
26. Respondent did not perform these leasing and property management activities through his sponsoring broker, VIP Premier Realty Corp.
27. Although Respondent received money from tenants and property owners related to his property management activities, Respondent failed to deliver them to his sponsoring broker and instead commingled them with his own money.
28. Respondent now understands that as a sales agent, any leasing and management activities must be conducted through his sponsoring broker and that the sponsoring broker is responsible for all money collected and disbursed.

Conclusions of Law

The acts and omissions on the part of Respondent set out in the Findings of Fact constitute the following violations that are cause for the suspension, revocation, or reprimand of Respondent's Texas real estate sales agent license pursuant to the specific statutes and rules cited below and/or Section 1101.656, Texas Occupations Code, and are further cause for the assessment of an administrative penalty against Respondent pursuant to Section 1101.701, Texas Occupations Code:

29. Section 1101.351(c), Texas Occupations Code, by acting or attempting to act as a broker or sales agent without the sales agent acting being associated with a licensed broker and acting for that broker; and
30. 22 Tex. Admin. Code §535.146(b)(2) by failing to immediately deliver any trust money to the sales agent's sponsoring broker.

Order

IT IS ORDERED that Respondent's Texas real estate sales agent license is suspended for five years, effective 5:00 p.m., May 4, 2018.

IT IS FURTHER ORDERED that beginning at 5:00 p.m., May 4, 2019, the remaining four years of the suspension is probated for four years ending May 4, 2023, subject to the following terms.

1. Respondent must comply with Chapter 1101 of the Texas Occupations Code and with the Rules of the Commission.
2. Respondent must fully cooperate with the Commission's Standards & Enforcement Services Division in completing its investigation of any future complaints filed against him.
3. Not later than the 10th working day after the date of any new sponsorship or change in sponsorship, Respondent must submit to the Commission's Standards & Enforcement Services Division a signed verification from Respondent's sponsoring broker that the sponsoring broker has received a copy of this Order and is aware of Respondent's probationary status and the terms of this Order. A violation of this term automatically suspends Respondent's real estate sales agent license until the signed verification is received.
4. Respondent may not engage in any property management activities on behalf of others during the term of this order.
5. Respondent may not apply for a real estate broker license from the Texas Real Estate Commission during the term of this order.


IT IS FURTHER ORDERED that Respondent pay an administrative penalty of \$4,500 by cashier's checks or money orders payable to the Texas Real Estate Commission as follows. The remitter on the cashier's check or money order must be Respondent or Respondent's attorney.

1. The sum of \$1,500 is due with the entry of this order.
2. For 12 months the sum of \$250 is due on the 15th of each month beginning on or before June 15, 2018, and ending with the final payment of \$250 due on or before May 15, 2019.
3. Should the 15th day of any month fall on a weekend or legal holiday, the payment is due the next business day.
4. Any amounts paid by Respondent in excess of the required monthly payments of \$250 go toward the principal amount owed and do not excuse Respondent from making regular monthly payments of at least \$250 until the total sum is paid in full.
5. Respondent must make all payments set forth above timely and without any grace period or notice from the Commission. Failure to timely pay automatically suspends Respondent's Texas real estate sales agent license until all of the remaining balance of the administrative penalty is paid in full.

IT IS FURTHER ORDERED that a violation of the above terms, other than those that specifically provide for automatic suspension, or automatic revocation of probation or suspension of license, is, after notice and hearing, grounds to revoke probation and


impose the above suspension of Respondent's Texas real estate sales agent license in addition to any additional disciplinary action which may be warranted for a subsequent violation of the Texas Occupations Code.

DATED: 4/30/2018

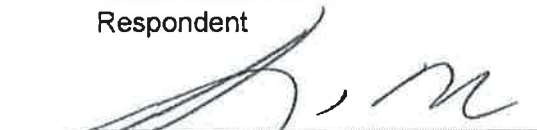
 for Douglas Oldmixon
Douglas E. Oldmixon
Executive Director
Texas Real Estate Commission

The undersigned Respondent states and affirms that Respondent enters into this agreed order of his own free will; that Respondent admits to the above Findings of Fact and Conclusions of Law; that Respondent has been afforded all administrative remedies due him under the law by the Texas Real Estate Commission; that Respondent, having been advised of his right to a hearing, waives this right; that Respondent has been represented and counseled in this matter by an attorney of his own selection who is licensed to practice in the State of Texas; and that Respondent waives all right to judicial review of this Order.

DATED: 4-25-18


Mark Fermin Flores
Respondent

DATED: 4-25-18


Kenneth S. Saks
Attorney for Respondent

DATED: 4/30/18


Beverly S. Rabenberg
Staff Attorney