

Hearing No. 184453

**Texas Real Estate Commission**

v.

**Andrea Vanessa Mitchell  
Unlicensed**

§  
§  
§  
§

**Before the Texas Real  
Estate Commission  
("Commission")**

**Sitting in Austin,  
Travis County, Texas**

**Final Order**

On April 17, 2019, a designee of the Executive Director, after investigation of a possible violation(s) and the facts relating to that violation, issued a Notice of Violation and Original Petition ("Notice") to Andrea Vanessa Mitchell ("Respondent"). The Notice informed Respondent of the determination that Respondent had violated a provision of Chapter 1101 of the Texas Occupations Code and recommended that Respondent be ordered to cease and desist all unlicensed real estate brokerage activities in Texas and the imposition of an administrative penalty of \$10,000 ("Penalty"). A copy of the Notice is attached and incorporated here. The Notice was sent by email, regular and certified mail, return receipt requested, to Respondent's last known address of record as shown by the Commission's records. Respondent failed to submit a written response to the Notice.

Pursuant to Sections 1101.704(b) and 1101.759 of the Texas Occupations Code, the Commission approves the determination and imposition of the recommended Penalty and order to cease and desist. Respondent is ordered to cease and desist all unlicensed real estate brokerage activities in Texas and assessed an administrative penalty of \$10,000, effective July 15, 2019.

If enforcement of this Final Order is restrained or enjoined by court order, this Final Order is effective upon a final determination by the court or an appellate court in favor of the Texas Real Estate Commission.

**Douglas E. Oldmixon**

Digitally signed by Douglas E. Oldmixon  
DN: cn=Douglas E. Oldmixon, o=TREC/TALCB, ou=AMS,  
email=douglas.oldmixon@trec.texas.gov, c=US  
Date: 2019.06.18 15:10:04 -05'00'

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Douglas E. Oldmixon      Date  
Executive Director  
Texas Real Estate Commission



TEXAS REAL ESTATE COMMISSION

Standards & Enforcement Services  
Direct Line: (512) 936-3005  
Facsimile: (512) 936-3809

April 17, 2019

**NOTICE OF ALLEGED VIOLATION**  
**CEASE AND DESIST UNLICENSED ACTIVITY**

**DO NOT IGNORE THIS IMPORTANT MATTER OR AN ORDER TO CEASE AND DESIST  
AND IMPOSITION OF AN ADMINISTRATIVE PENALTY WILL BECOME FINAL.**

Andrea Vanessa Mitchell  
[REDACTED]

CM:RRR No. 91 7199 9991 7037 5200 5506

(copy also sent by regular mail)

Via Email: [REDACTED]

Re: Our File No. 184453  
In the Matter of  
Andrea Vanessa Mitchell

Dear Ms. Mitchell:

**1. Notice.** Based on information contained in our referenced file, the Texas Real Estate Commission ("the Commission") has determined that you violated Chapter 1101 of the Texas Occupations Code ("The Real Estate License Act") and/or the Rules of the Texas Real Estate Commission ("Rules"). Attached is a copy of an Original Petition which includes a summary of the alleged violations and is incorporated here by reference.

**2. Consequences.** The legal consequences of these violations could include:

- A.** an administrative penalty not to exceed \$5,000 per violation, with each day a violation continues or occurs a separate violation for purposes of imposing a penalty;
- B.** referral to a district or county attorney for criminal prosecution as a Class A misdemeanor, with the following penalties;
  - 1.** a fine not to exceed \$4,000;
  - 2.** confinement in jail for a term not to exceed one year; or
  - 3.** both a fine and confinement; and

C. a temporary or permanent injunction issued by a district court.

**3. Cease and Desist** We request that you immediately **CEASE AND DESIST** all activities considered to be the business of real estate brokerage as defined in Tex. Occ. Code §1101.002(1). A person may not act as or represent that the person is a real estate broker or sales agent until the person applies for and obtains an active real estate broker or sales agent license. See Tex. Occ. Code §1101.351.

Despite the issuance of this cease and desist notification and notification of the following assessment of an administrative penalty, the Commission is not precluded from referring evidence of your unlicensed real estate brokerage activity violations to the proper authorities for criminal prosecution.

**4. Penalty** We recommend that the Commission issue a final order:

- (1) imposing a \$10,000 administrative penalty ("Penalty");
- (2) ordering you to immediately cease and desist all unlicensed real estate brokerage activities in Texas; and
- (3) ordering you to pay reasonable costs.

**5. Agreement** If you agree to our determination of the alleged violations and recommended administrative penalty and to immediately cease and desist unlicensed real estate brokerage activities in Texas, you have not later than the 30th day after the date this letter was sent to notify this office in writing of your agreement, and remit to us the recommended administrative penalty in the form of a cashier's check or money order payable to the Texas Real Estate Commission. Upon our receipt of your written notice of agreement and the administrative penalty, a final order by the Commission will be entered reflecting the recommendation.

**6. Hearing Request** If you do not agree to the determination of the violations or recommended administrative penalty, you have not later than the 30th day after the date this letter was sent to submit a written request for a hearing. A hearing will be set in Austin, Texas at a later date and you will be notified of that date and location. A response by phone is not a written request.

**7. Applicable Law.** The Real Estate License Act and the Rules of the Commission may be found on our website, [www.trec.texas.gov](http://www.trec.texas.gov).

**8. Default Notice.**

**Failure To Submit Written Request For A Hearing**

If you fail to either send a written request for a hearing or a written notice of agreement, pay the administrative penalty, and immediately cease and desist unlicensed real estate brokerage activities in Texas within the 30-day period described above, the Commission will enter a final order to cease and desist and impose the administrative penalty as described in paragraph 4 above.

Please use the file number on the previous page in any future correspondence with this agency. Please address any written correspondence to the undersigned attorney at the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or you may fax to (512) 936-3809.

Sincerely,



W. Kenneth Herring  
Staff Attorney  
Standards & Enforcement Services

KH:rs  
Enclosure

SOAH Docket No. \_\_\_\_\_

**Texas Real Estate Commission** § **Before the State Office**  
v. § **Of**  
**Andrea Vanessa Mitchell** § **Administrative Hearings**  
**Unlicensed** §

**Original Petition**

The Texas Real Estate Commission (“Commission” or “Petitioner”), brings the following action against Andrea Vanessa Mitchell (“Respondent”), to seek relief authorized by Sections 1101.351 and 1101.759, Texas Occupations Code, and Subchapter O, Chapter 1101, Texas Occupations Code. In support Petitioner shows the following.

**Jurisdiction and Authority**

1. Petitioner is responsible for administering and enforcing Chapter 1101, Texas Occupations Code (“The Real Estate License Act”), including ensuring that consumers of real estate brokerage services are protected through the licensing and regulation of those persons engaged in real estate brokerage services. Petitioner is authorized to impose administrative penalties and/or issue a cease and desist order. See Tex. Occ. Code §§1101.701, 1101.759, and 22 Tex. Admin. Code §535.191.
2. Contested cases are to be initiated by Petitioner and pursued in accordance with 22 Tex. Admin. Code ch 533. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. See Tex. Gov’t. Code ch. 2003 and 22 Tex. Admin. Code ch 533.
3. Real estate brokerage activity is defined in Section 1101.002, Texas Occupations Code.
4. Exemptions to The Real Estate License Act are listed in Section 1101.005, Texas Occupations Code
5. Unless a person holds a license issued under Chapter 1101, Texas Occupations Code, the person may not: (1) act as or represent that the person is a broker or sales agent; or (2) act as a residential locator. See Tex. Occ. Code §1101.351(a).

**License Status, Address, and Previous Disciplinary History**

6. Respondent is not, and was not, a licensed Texas real estate sales agent or broker at times

relevant to this matter.

7. Respondent was a licensed Texas real estate broker from February 17, 2005, until October 28, 2013, when her license was suspended. Respondent's real estate broker license expired on February 28, 2014.
8. On June 14, 2010, the Commission issued a probated suspension order and assessed an administrative penalty of \$5,000 against Respondent for multiple failures to fulfill property management duties and for failing or refusing to produce documents requested by the Commission. The penalty is unpaid.
9. On April 24, 2017, the Commission issued an order imposing a \$5,000 administrative penalty against Respondent for unlicensed real estate brokerage activity. The penalty is unpaid.
10. Respondent's last known mailing address for service is: (1) [REDACTED]  
[REDACTED] and (2) email address: [REDACTED]

### **Facts of Case**

11. Respondent engaged in real estate brokerage services in Texas for another in exchange for a fee or other valuable consideration or with the expectation of receiving valuable consideration as follows.
12. Respondent continuously engaged in real estate brokerage activity after her license expired on February 28, 2014.
13. Respondent engaged in real estate brokerage activity that included controlling the acceptance or deposit of rent for property located at 1212 Circletree, Killeen, Texas 76549.
14. On July 17, 2018, the Commission issued a request to Respondent to immediately cease and desist all activity considered to be the business of real estate brokerage as defined in Section 1101.002, Texas Occupations Code.

### **Allegations**

ACCORDINGLY, Petitioner complains that Respondent violated Section 1101.351(a)(1), Texas Occupations Code, by controlling the acceptance or deposit of rent from a resident of a single family residential property unit without first obtaining a real estate license.

### **Prayer**

Petitioner requests that Respondent be cited to appear and answer. Petitioner further requests:

1. Respondent be ordered to pay an administrative penalty of \$10,000;

2. Respondent be ordered to cease and desist engaging in activity considered to be the activity of a real estate sales agent or broker as defined in Section 1101.002(1), Texas Occupations Code;
3. Respondent be ordered to pay reasonable costs associated with the hearing if Respondent fails to appear at the hearing; and
4. such other and further relief to which Petitioner may be justly entitled.

Respectfully submitted,



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W. Kenneth Herring  
Staff Attorney  
Standards & Enforcement Services  
Texas Real Estate Commission  
State Bar No. 00686787  
P.O. Box 12188  
Austin, Texas 78711-2188  
Phone: (512) 936-3005  
Fax: (512) 936-3809

**From:** Raquel Salazar  
**To:** [REDACTED]  
**Bcc:** Ken Herring  
**Subject:** Notice of Alleged Violation, RE: Andrea Vanessa Mitchell, TREC FILE# 184453  
**Date:** Wednesday, April 17, 2019 9:29:00 AM  
**Attachments:** [184453.Mitchell.NOAV.pdf](#)  
[184453.Mitchell.OPET.pdf](#)

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Ms. Mitchell:

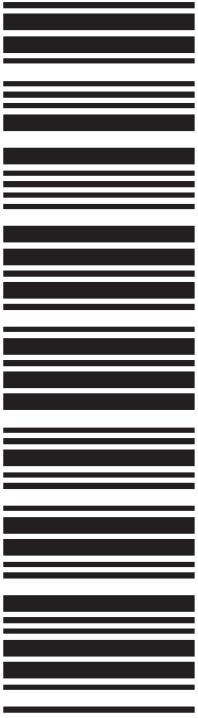
Attached please find important information regarding the above-referenced Commission matter. Please read the Original Petition (OPET) carefully and follow the directions contained in the Notice of Alleged Violation (NOAV). This information is time-sensitive and requires your prompt attention.

Please keep these documents with your records regarding this matter. You may contact Staff Attorney Ken Herring at (512) 936-3005 if you have questions or concerns regarding this matter.

Raquel Salazar  
Legal Assistant, III  
Standards & Enforcement Services  
Texas Real Estate Commission  
(512) 936-3005

# Ship Request Form

**Ship Request #:** 210836



Sender	Recipient
Name: Raquel Salazar	Attn To: ANDREA VANESSA MITCHELL
Account #: 32960 ENFORCEMENT	Company: [REDACTED]
Phone: 512-936-3074	Address: [REDACTED]
Email: [REDACTED]	
Company: CPA TPASS	
	City: [REDACTED]
	State: [REDACTED]
	Zip: [REDACTED]
eRR Track: 91719999911703752005506	Country: US

## Shipping Instructions

## Items

## Track Another Package +

**Tracking Number:** 9171999991703752005506

Remove X

Your item has been delivered to the original sender at 10:17 am on May 20, 2019 in AUSTIN, TX 78711.

### Delivered

May 20, 2019 at 10:17 am  
Delivered, To Original Sender  
AUSTIN, TX 78711

Feedback

### Return Receipt Electronic



### Tracking History



#### May 20, 2019, 10:17 am

Delivered, To Original Sender  
AUSTIN, TX 78711

Your item has been delivered to the original sender at 10:17 am on May 20, 2019 in AUSTIN, TX 78711.

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#### May 20, 2019, 9:20 am

Arrived at Unit  
AUSTIN, TX 78701

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#### May 19, 2019, 5:07 pm

Departed USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

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#### May 19, 2019

In Transit to Next Facility

**May 16, 2019, 8:57 am**

Unclaimed/Being Returned to Sender  
HARKER HEIGHTS, TX 76548

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Reminder to Schedule Redelivery of your item

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**April 23, 2019, 11:47 am**

Notice Left (No Authorized Recipient Available)  
HARKER HEIGHTS, TX 76548

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**April 23, 2019, 8:35 am**

Out for Delivery  
HARKER HEIGHTS, TX 76548

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**April 23, 2019, 8:25 am**

Sorting Complete  
HARKER HEIGHTS, TX 76548

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**April 23, 2019, 7:05 am**

Arrived at Unit  
HARKER HEIGHTS, TX 76548

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**April 22, 2019, 7:16 pm**

Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

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**April 22, 2019**

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

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Feedback

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**Product Information**

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**See Less ^**

4/23/19 DA/6  
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LEKAS HELLE

TEXAS REAL ESTATE COMMISSION  
P.O. BOX 12188  
AUSTIN, TEXAS 78711-2188

91 7199 9991 7037 5200 5506

RETURN SERVICE REQUESTED

07. 216

**CERTIFIED MAIL**



U.S. POSTAGE

US POSTAGE  **PRINCE BOWES**  
ZIP 78701 **\$005.75<sup>0</sup>**  
02 1W  
0001401682 APR 22 2019

ANDREA VANESSA MITCHELL

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RETURN TO SENDER  
REUNION FORWARD