

Hearing No. 184453

Texas Real Estate Commission	§	Before the Texas Real
	§	Estate Commission
v.	§	("Commission")
	§	
Andrea Vanessa Mitchell	§	Sitting in Austin,
Unlicensed	§	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'

Douglas E. Oldmixon Date
Executive Director
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.

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

Texas Real Estate Commission

v.

**Andrea Vanessa Mitchell
Unlicensed**

§
§
§
§
§
§

Before the State Office

Of

Administrative Hearings

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,



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](#)

Ms. Mitchell:

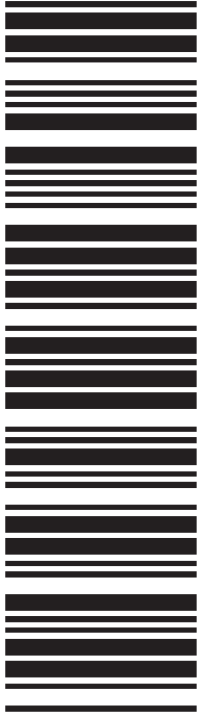
Attached please find important information regarding the above-referenced Commission matter. Please read the Original Petition (OPET) carefully and follow the directions contained in the Notice of Alleged Violation (NOAV). This information is time-sensitive and requires your prompt attention.

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

Name: Raquel Salazar
Account #: 32960 ENFORCEMENT
Phone: 512-936-3074
Email: [Redacted]
Company: CPA TPASS

eRR Track: 9171999991703752005506

Recipient

Attn To:
Company: ANDREA VANESSA MITCHELL
Address: [Redacted]

City: [Redacted]
State: [Redacted]
Zip: [Redacted]
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.

May 20, 2019, 9:20 am

Arrived at Unit
AUSTIN, TX 78701

May 19, 2019, 5:07 pm

Departed USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

May 19, 2019

In Transit to Next Facility

May 16, 2019, 8:57 am

Unclaimed/Being Returned to Sender
HARKER HEIGHTS, TX 76548

Reminder to Schedule Redelivery of your item

April 23, 2019, 11:47 am

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

April 23, 2019, 8:35 am

Out for Delivery
HARKER HEIGHTS, TX 76548

April 23, 2019, 8:25 am

Sorting Complete
HARKER HEIGHTS, TX 76548

April 23, 2019, 7:05 am

Arrived at Unit
HARKER HEIGHTS, TX 76548

April 22, 2019, 7:16 pm

Arrived at USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

April 22, 2019

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Feedback

Product Information



See Less ^

329.60

RETURN SERVICE REQUESTED



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

91 7199 9991 7037 5200 5506



U.S. POSTAGE® PITNEY BOWES®
ZIP 76701 \$ 005.75⁰
02 1W
0001401682 APR 22 2019

CERTIFIED MAIL

ANDREA VANESSA MITCHELL

787 DE 1 0005/10/19

RETURN TO SENDER
UNCL. AIMED
UNABLE TO FORWARD

EC: 78711218E8E *0710-06552-22-36

UNCLASIFIED