

Hearing No. 202829

Texas Real Estate Commission	§	Before the Texas Real
	§	Estate Commission
v.	§	("Commission")
	§	
Johnnie Mathews Rabon, Jr.	§	Sitting in Austin,
Unlicensed	§	Travis County, Texas


Final Order

On October 26, 2020, a designee of the Executive Director, after investigation of a possible violation and the facts relating to that violation, issued a Notice of Violation and Original Petition ("Notice") to Johnnie Mathews Rabon, Jr., ("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 \$5,000 ("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 \$5,000, effective January 4, 2021.

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.

**Chelsea
Buchholtz**

 Digitally signed by Chelsea
Buchholtz
Date: 2020.12.08 14:59:32 -06'00'

Chelsea Buchholtz Date
Executive Director, Texas Real Estate Commission
or
Tony Slagle
Deputy Executive Director, Texas Real Estate Commission



TREC Enforcement Division
Direct Line: (512) 936-3005
Facsimile: (512) 936-3809

October 26, 2020

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

Johnnie Mathews Rabon, Jr.

Via Email: [REDACTED]

[REDACTED]
CM:RRR No. 9214 8901 9403 8323 6560 16
(copy also sent by regular mail)

Re: Our File No. 202829
In the Matter of
Johnnie Matthews Rabon, Jr.

Dear Mr. Rabon:

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 \$5,000 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,

A handwritten signature in cursive script that reads "Beverly S. Rabenberg".

Beverly S. Rabenberg
Staff Attorney
TREC Enforcement Division

BSR:rs

Enclosure

Texas Real Estate Commission

v.

Johnnie Matthew Rabon, Jr.
Texas Real Estate Broker License
Number 293700

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Before the State Office

Of

Administrative Hearings

Original Petition

The Texas Real Estate Commission ("Commission" or "Petitioner"), brings the following action against Johnnie Matthew Rabon, Jr. ("Respondent"), to seek relief authorized by Tex. Occ. Code §§1101.351, 1101.759, and subch. O of ch. 1101. 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 rental locator. See Tex. Occ. Code §1101.351(a).

License Status and Address

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

relevant to this matter.

7. Respondent's last known mailing address for service is [REDACTED]
[REDACTED] and email address: [REDACTED].

Facts of Case

8. On May 17, 2018, Respondent's real estate broker license was revoked by operation of law because the Commission had made a payment from the Real Estate Recovery Trust Account on Respondent's behalf.
9. Although Respondent's real estate broker license had been revoked, Respondent continued to manage rental properties owned by others, including properties owned by Ronald Rosales and Silvia Trujillo.
10. Respondent's management of the rental properties included collecting the rent from the tenants and accounting for it to the owners, yard maintenance and communications with the tenants.
11. Under Section 1101.002(1), Tex. Occ. Code, real estate licensure is required for a person who engages in real estate brokerage activities, including, under Section 1101.002(a)(x), a person who "controls the acceptance of deposit of rent from a resident of a single-family residential real property unit."

Allegations

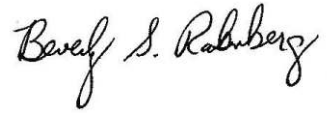
ACCORDINGLY, Petitioner complains that Respondent violated Section 1101.351(a), Texas Occupations Code, by managing property for others and controlling the acceptance or deposit of rent from a resident of a single-family residential real property unit.

Prayer

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

1. Respondent be ordered to pay an administrative penalty of \$5,000;
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,

A handwritten signature in black ink, reading "Beverly S. Rabenberg". The signature is fluid and cursive, with the first name "Beverly" and last name "Rabenberg" clearly legible.

Beverly S. Rabenberg
Staff Attorney
TREC Enforcement Division
Texas Real Estate Commission
State Bar No. 16446800
P.O. Box 12188
Austin, Texas 78711-2188
Phone: (512) 936-3005
Fax: (512) 936-3809

From: [Raquel Salazar](#)
To: [REDACTED]
Bcc: [Beverly Rabenberg](#)
Subject: Notice of Alleged Violation, RE: TREC FILE# 202829.Rabin
Date: Monday, October 26, 2020 11:21:00 AM
Attachments: [202829.Rabon.NOAV.pdf](#)
[202829.Rabon.OPET.pdf](#)

Mr. Rabon:

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

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

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