

BEFORE THE MISSISSIPPI REAL ESTATE COMMISSION

MISSISSIPPI REAL ESTATE COMMISSION

COMPLAINANT

VS.

NO. 08-1810

HERBERT A. STOGNER, HOME INSPECTOR

RESPONDENT

AGREED ORDER

THIS CAUSE came before the Mississippi Real Estate Commission, sometimes hereinafter "Commission," pursuant to authority of Miss. Code Ann. §73-60-1, *et seq.* on a formal Complaint brought against Herbert A. Stogner, Home Inspector. Prior to hearing before the Commission, the parties announced their agreement as to the allegations of the Commission Complaint and disciplinary action for Respondent, all as set forth herein. By entering into this Agreed Order, Respondent waives his right to a hearing with full due process and any right that might be available at law for appeal of any adverse decision which may have resulted from that hearing. Having reached an agreement with Respondent in this matter, the Commission issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

Complainant, the Mississippi Real Estate Commission, sometimes hereinafter "Commission" is charged with the administration and enforcement of the statutes and rules governing the licensure and practice of home inspectors under Mississippi law, Miss. Code Ann. §73-60-1, *et seq.*

II.

Respondent Herbert A. Stogner, sometimes hereinafter "Respondent" or "Stogner" is an adult resident citizen of Louisiana whose last known address of record with the Commission is 368 Anderson Rd., Amite, Louisiana 70422. Respondent currently holds a Mississippi home inspector's license, No. 0606 issued by the Commission pursuant to Miss. Code Ann. §73-60-1, *et seq.*, and, as such, he is subject to the provisions, rules and statutes governing the practice of home inspections under Mississippi law and to the jurisdiction of the Mississippi Real Estate Commission.

III.

On or about April 2018, the Commission received information that Respondent was performing home inspection services on new construction without the new home construction license required by Mississippi law. Thereafter, the Commission opened its investigation into the matter.

IV.

During the Commission investigation, the Commission obtained documentary evidence in the form of a new construction inspection report completed in 2017 that reflects a new construction inspection as having been completed by Respondent Herbert Stogner. No other person was identified as having performed the home inspection services reflected in the subject inspection report.

V.

During the Commission investigation, Respondent denied personally performing inspections on new construction. Respondent claimed he accompanied and assisted another home inspector, Rickey Authement, who Respondent claimed performed the new construction

inspections. At all times relevant to the allegations in the Commission Complaint, neither Rickey Authement nor Respondent Stogner were licensed to perform inspection services on new construction.

VI.

CONCLUSIONS OF LAW

The Commission and Respondent agree that the above and foregoing described acts and omissions of Respondent, if proved at a Commission hearing upon clear and convincing evidence, would constitute violations of Miss. Code Ann. §73-60-1, *et seq.*, and, more specifically, Miss Code Ann. §73-60-27 which provides, in relevant part:

After October 1, 2001, no person licensed under this chapter shall offer to perform or perform inspection services on new construction for a fee without having first obtained a residential home builders license from the Mississippi Board of Contractors and certification by the Southern Building Code Congress or any other national professional code organization.

DISCIPLINARY ORDER

Upon agreement and consent of Respondent as to disciplinary terms and disposition of this matter in lieu of a hearing before the Commission and, having issued its Findings of Fact and Conclusions of Law, the Commission hereby issues its Disciplinary Order as follows:

1. The license of Respondent Herbert A. Stogner shall be suspended for a period of one (1) month (thirty days), held in abeyance. During the period of suspension held in abeyance, Respondent will be permitted to continue the practice of home inspections in Mississippi insofar as he complies with all statutes, rules and regulations governing the practice of home inspections in Mississippi and with all other terms of this Agreed Order.

2. Respondent expressly agrees he will not in the future affix his name or signature upon any home inspection report, as having completed such inspection, unless Respondent has in fact completed such inspection and when licensed to complete such inspection at the time the inspection services are performed.
3. Respondent shall be liable for an administrative fine of Five Hundred Dollars (\$500.00) payable to the Mississippi Real Estate Commission pursuant to Miss. Code Ann. §73-60-27(1). Said administrative fine shall be paid by money order or other certified funds within ninety (90) days of the effective date of this Agreed Order.
4. This Agreed Order shall be effective upon the date it is executed by the Commission.

THIS the 11th day of FEBRUARY, 2020.

MISSISSIPPI REAL ESTATE COMMISSION

BY:


ROBERT E. PRAYTOR, Administrator

AGREED:


HERBERT A. STOGNER

DATE 1-7-20

