Failure to Supervise

This case highlights the importance of broker supervision, and how it is important to ensure that only licensed individuals engage in licensed activity. Further, it demonstrates the importance of having policies pertaining to advertising and that you must enforce the policies in your office.

THE SITUATION:

Mr. Bryan Thomas was issued a Principal Broker License in Virginia in October 2014. He is the Principal Broker for Thomas Real Estate Investment Services, Inc., which is headquartered in Maryland, and has branch offices in Charlottesville and Roanoke, Virginia.

During a review of documents pertaining to another complaint, the Department of Professional and Occupational Regulation discovered that Mr. Thomas may be in violation of the Board's regulations.

THE INVESTIGATION:

Investigators learned that Thomas Real Estate Investment Services, Inc. entered into an Exclusive Right to Sell with West Partners LLC as Seller on July 25, 2018. The agreement was to sell a home located in Alexandria, Virginia. The agreement was signed by Mr. Thomas and Elizabeth McManus, Vice President for the Seller. The agreement stated, in part:

4. Services of Broker. Throughout the term of this Agreement, Broker shall diligently use its best efforts to market and procure a purchaser for the Property in accordance with the highest standards for brokers for such services. Those efforts shall include, but not be limited to the following:
*(a) Broker shall appoint Rebecca Botts, **Brody Chin**, and Christina Zhang, as the "Project Team" for marketing of the Property.*

*16.Cooperating Broker. . . . Broker's listing team for the purposes of implementing the obligations of Broker hereunder shall consist of Rebecca Botts, **Brody Chin**, and Christina Zhang. Owner and Broker agree that all non-listing Team agents who represent prospective purchasers shall be considered Cooperating Brokers for the purposes of this Agreement.*

On July 25, 2018, Brody Chin was not licensed in Virginia, but did have his real estate license in Maryland. On December 23, 2018, Mr. Chin was issued a Real Estate Salesperson License in Virginia.

During the investigation, Mr. Thomas told investigators that the language used in the Agreement was not accurate. He explained that Mr. Chin was on the team to help bring the property to the attention of out-of-state buyers. He intended for Ms. Botts to serve as the listing agent, but because the seller would not understand the nuances of their roles, he thought this was a more streamlined way for the agreement to be worded.

He admitted that it was an oversight to have an unlicensed individual listed as part of the marketing team.

Investigators also reviewed an email advertisement for the Alexandria property. The advertisement only included the name of "Thomas Real Estate" rather than the full licensed name of

Thomas Real Estate Investment Services, Inc and the entity did not have a registered fictitious name. In addition, the email included the contact information for Brody Chin, Rebecca Botts, and Christina Zhang.

Mr. Thomas told investigators that he had informed licensees associated with him on multiple occasions that associates who are not licensed in Virginia cannot include their names on advertisements for properties located in Virginia. He stated that Mr. Chin did not seek Mr. Thomas's approval before circulating the email and that he did not see it before it went out.

Mr. Thomas reported that he took steps to ensure this does not happen again and that he has a clear policy that he is supposed to sign off on all advertisements.

THE RESULT:

The Board determined that Mr. Thomas failed to ensure licensees for whom he had oversight responsibility held active licenses while practicing real estate and failed to ensure that all advertising was under his direct supervision and contained the firm's licensed name. The Board issued a fine of $800 for both violations and required him to complete eight hours of Board-approved continuing education pertaining to Broker Management and Supervision.