

STATE OF INDIANA,)
)
 Petitioner,)
)
 v.)
)
 CHAD N. BROCK,)
 License No.: SP30001112,)
)
 Respondent.)

FILED
JAN 16 2002
IPLA

COMPLAINT

The State of Indiana, by counsel, Steve Carter, Attorney General of Indiana, by David W. Stewart, Deputy Attorney General, pursuant to Ind. Code 25-1-7-7 (a), files its complaint against Chad N. Brock ("Brock"), and in support thereof alleges and states as follows:

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Indiana Real Estate Commission, pursuant to Ind. Code 25-1-7-1 *et seq.*
2. The Commission is charged with the duty and responsibility of regulating the practice of real estate practitioners in the State of Indiana pursuant to Ind. Code 25-34.1-2-5.
3. The Commission is empowered to hold disciplinary hearings pursuant to the authority of Ind. Code 25-34.1-2-5 and Ind. Code 4-21.5-3 *et seq.*
4. Pursuant to Ind. Code 25-1-7-7, a report was made on January 15, 2002, to the Attorney General by the Director of the Division of Consumer Protection stating that the Director believes that the licensee Chad N. Brock should be subjected to disciplinary

sanctions by the Indiana Real Estate Commission. This serves as notice with the Commission of the Attorney General's intent to prosecute the Respondent pursuant to Ind. Code 25-1-7-10.

5. Brock is and was at all times relevant, a licensed real estate salesperson in the State of Indiana under license number SP30001112.

6. On or about November 1, 2000 Brock entered into a Management Agreement with Gregory Bieberich ("Bieberich") for Brock to manage the rent of Bieberich's lake cottage located at 580 Lane 330 on Big Otter Lake in Steuben County, Indiana.

7. On or about December 22, 2000 Brock rented the cottage to Tonya Bretz (Bretz). A lease was signed and Bretz gave Brock a check in the amount of \$500 for the security deposit. Brock did not report this transaction to Bieberich.

8. On or about January 1, 2001 Bretz sent another \$500 check to Brock for January's rent. This transaction was not reported to Bieberich.

9. On or about January 14, 2001 Bretz took possession of the cottage. This transaction was not reported to Bieberich.

10. During the week of January 29, 2001 Bieberich received his copy of the lease from Brock. Various areas of the lease had been changed, altered or deleted by Brock, thereby giving Bieberich a false impression of what had actually transpired. It was only later, after a discussion with Bretz, did Bieberich discovered that his copy of the lease had been altered.

11. At various times throughout Brock's entire representation of Bieberich, he fraudulently and deceptively withheld information, manipulated documents and failed to turn over monies that were due Bieberich.

12. Brock committed some of these fraudulent and deceptive practices from the offices of his employer, Booth-Rose-Krebs, Inc., GMAC (Lic. # CO10000227) and his principal broker, Mark R. Bock (Lic. # PB51405164), without their knowledge, approval or consent.

13. Brock is in violation of **IC 25-1-11-5**, which states in relevant part:

Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

(1) a practitioner has:

(B) engaged in fraud or material deception in the course of professional services or activities;

(3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

14. Brock is in violation of **IC 25-34.1-3-3.1**, which states in relevant part:

d) A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

15. Brock is in violation of **IC 25-34.1-10-10**, which states in relevant part:

Sec. 10. (a) A licensee representing a seller or landlord has the following duties and obligations:

(1) To fulfill the terms of the agency relationship made with the seller or landlord;

(3) To promote the interests of the seller or landlord by:

(B) presenting all offers to purchase or lease to and from the seller or landlord immediately upon receipt of the offers

regardless of whether an offer to purchase or lease has been accepted, unless otherwise directed by the seller or landlord;

(E) timely accounting for all money and property received from the seller or landlord;

(F) exercising reasonable care and skill; and

(G) complying with the requirements of this chapter and all applicable federal, state, and local laws, rules, and regulations, including fair housing and civil rights statutes, rules, and regulations

16. Brock is in violation of **IC 25-34.1-10-11**, which states in relevant part:

Sec. 11. (a) A licensee representing a buyer or tenant has the following duties and obligations:

(1) To fulfill the terms of the agency relationship made with the buyer or tenant;

(3) To promote the interests of the buyer or tenant by:

(E) timely accounting for all money and property received from the buyer or tenant;

(F) exercising reasonable care and skill; and

(G) complying with the requirements of this chapter and all applicable federal, state, and local laws, rules, and regulations, including fair housing and civil rights statutes, rules, and regulations.

17. Brock has violated **876 IAC 1-1-40**, which states in relevant part:

Sec. 40. Incompetent practice of real estate includes the following:

(1) Failing to account for and remit any funds or documents belonging to others that come into the licensee's possession;

(15) Otherwise violating IC 25-34.1 or this title.

18. Ind. Code 25-1-11-12 states:

(a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

(1) Permanently revoke a practitioner's license.

(2) Suspend a practitioner's license.

- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:

- (A) Report regularly to the board upon the matters that are the basis of probation;
- (B) Limit practice to those areas prescribed by the board;
- (C) Continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
- (D) Perform or refrain from performing any acts, including community service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

WHEREFORE, Petitioner requests the Board to impose such sanctions as are appropriate under Ind. Code 25-1-11-12 and for all other necessary and proper relief in the premises.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana
Atty. No.: 4150-64

By: 

David W. Stewart
Deputy Attorney General
Atty. No. 17777-49
Office of the Attorney General
Indiana Government Center South
402 West Washington Street
Indianapolis, IN 46204
(317) 232-3572

Copies to:

Chad Brock
910 W. Niblick Ct.
Angola, IN 46703

CERTIFIED MAIL NO.: 7001 2510 0001 0617 0045
RETURN RECEIPT REQUESTED

Randal S. Forbes
Attorney at Law
P.O. Box 374
Angola, IN 46703

CERTIFIED MAIL NO.: 7001 2510 0001 0617 0038
RETURN RECEIPT REQUESTED

David W. Stewart
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
402 West Washington Street
Indianapolis, IN 46204