

201973

Hearing No. _____

Texas Real Estate Commission

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**Before the Texas Real Estate Commission
("Commission")**

v.

**1031 Property Care, LLC
Unlicensed**

**Sitting in Austin,
Travis County, Texas**

Final Order

On March 1, 2021, 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 **1031 Property Care, LLC** ("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 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 May 3, 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: 2021.04.08 13:49:15 -05'00'

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

March 1, 2021

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.

1031 Property Care, LLC
Bruce Armstrong, Registered
Agent [REDACTED]

Via Email: [REDACTED]

CM:RRR No. 9214 8901 9403 8333 2870 19
(copy also sent by regular mail)

Re: Our File No. 201973
In the Matter of
1031 Property Care, LLC

Dear Mr. Morgan:

1. Notice. Based on information contained in our referenced file, the Texas Real Estate Commission ("the Commission") has determined that 1031 Property Care, LLC violated Chapter 1101 of the Texas Occupations Code ("The Real Estate License Act") and/or the Rules of the Texas Real Estate Commission ("Commission"). 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.** a 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; and
 - 2.** an additional fine not to exceed \$10,000; and
- C.** a temporary or permanent injunction issued by a district court.

3. Cease and Desist. We request that 1031 Property Care, LLC 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 business entity may not act as or represent that the business entity is a real estate broker until the business entity applies for and obtains an active real estate broker license. See Tex. Occ. Code §1101.351(a-1).

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 1031 Property Care, LLC's 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 1031 Property Care, LLC to immediately cease and desist all unlicensed real estate brokerage activities in Texas; and
- 3) ordering RESPONDENT to pay reasonable costs.

5. Agreement. If you agree to our determination of the alleged violations and recommended administrative penalty and to have 1031 Property Care, LLC 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 have 1031 Property Care, LLC 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,



Aimée Cooper
Staff Attorney
TREC Enforcement Division

AC/rs
Enclosure

SOAH Docket No. _____

Texas Real Estate Commission

v.

1031 Property Care, LLC
Unlicensed

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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 1031 Property Care, LLC (“Respondent”), to seek relief authorized by Sections 1101.351, 1101.759, Texas Occupations Code, and Subchapter O of 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 business entity holds a license issued under Chapter 1101, Texas Occupations Code, the business entity may not act as or represent that the business entity is a broker. See Tex. Occ. Code §1101.351(a-1).

License Status and Address

6. Respondent is not, and was not, a licensed Texas real estate broker at times relevant to this

matter.

7. Respondent's last known mailing address for service is: (1) [REDACTED] and (2) email address: [REDACTED]

Facts of Case.

8. 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.
9. Between 2006 and 2017, Respondent performed property management in Texas, including representing property owners in lease transactions, with the expectation of compensation.
10. Upon admissions made by Bruce Armstrong, registered agent for Respondent, Respondent had previously performed property management for properties in Texas but ceased all property management activities in December 2017.
11. On or about December 6, 2018, Respondent entered into a service agreement with Family Dollar in Horizon City, Texas, to assist in the sale of real property located at 831 Darrington Blvd., Horizon City, Texas, with the expectation of compensation.
12. On or about July 31, 2019, Respondent entered into a service agreement with Family Dollar in San Antonio, Texas, to assist in the sale of real property located at 5938 Old Pearsall Road, San Antonio, Texas, with the expectation of compensation.

Allegations

ACCORDINGLY, Petitioner complains that Respondent committed the following violation:

13. Section 1101.351(a-1), Texas Occupations Code, by acting in the capacity of, engaging in the business of, or advertising or holding itself out as engaging in or conducting the business of a real estate broker 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 \$5,000.00;
2. Respondent be ordered to cease and desist engaging in activity considered to be the activity of a real estate 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,



Aimée Cooper
Staff Attorney
TREC Enforcement Division
Texas Real Estate Commission
State Bar No. 24012450
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 936-3005
Facsimile: (512) 936-3809

Raquel Salazar

From: Raquel Salazar
Sent: Monday, March 1, 2021 1:22 PM
To: [REDACTED]
Subject: Notice of Alleged Violation, RE: TREC FILE# 201973
Attachments: 201973.1031PropertyCareLLC.NOAV.pdf; 201973.1031PropertyCareLLC.OPET.pdf; 201973.Bruce Armstrong.NOAV.pdf; 201973.Bruce Armstrong.OPET.pdf

Mr. Bruce Armstrong:

Attached please find important information regarding the above-referenced Commission matter. Please read each Notice of Alleged Violation (NOAV) and 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 TREC Enforcement 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