216 Va. 109
SUPREME COURT OF VIRGINIA
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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 74-0592

CHARLES A. REICH AND
HENRY-HANSON-TUCKER REALTY CORPORATION,
Appellants,

v.

MARTHA M. KIMNACH,
WILLIAM L. MURPHY, JR. AND CHARLES C. SKINNER,
Appellees.

APPENDIX

FROM THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

Julian A. Bryant, Jr.
Byrd, Dinsmore & Evans, Ltd.
2460 East Little Creek Road
Norfolk, Virginia 23518
Counsel for Appellant.

IN THE

SUPREME COURT OF VIRGINIA

AT RICHMOND

Record No. 740593

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 16th day of October, 1974.

CHARLES A. REICH, ET AL., Plaintiffs in error,

against

MARTHA M. KIMNACH, ET AL., Defendants in error.

From the Circuit Court of the City of
Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of Charles A. Reich and Henry-Hanson-Tucker Realty Corporation a writ of error is awarded them to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of March, 1974, in a certain amended motion for judgment then therein depending, wherein the said petitioners were plaintiffs and Martha M. Kimnach and others were defendants; upon the petitioners, or some one for them, entering into bond with sufficient security before the clerk of the said court below in the penalty of $500, with condition as the law directs.

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RECORD

(SECOND) AMENDED MOTION
FOR JUDGMENT

CHARLES A. REICH, ET AL.,	)	
	)	
Plaintiffs	)	
	)	
v.	)	AT LAW
	)	NO. 15,922
MARTHA M. KIMNACH,	)	
	)	
Defendant.	)	

NOW COME your plaintiffs, Charles A. Reich and Henry-Hanson-Tucker Realty Corporation who represent the following to be their amended motion for judgment:

1. That your plaintiff, Charles A. Reich, is a real estate salesman duly licensed under the laws of this Commonwealth and in the employ of Henry-Hanson-Tucker, a real estate brokerage firm duly licensed under the laws of this Commonwealth.

2. That defendant engaged the services of William L. Murphy, trading as Bill Murphy Realty Company, to sell a certain piece of property designated as Lot-45, Alanton for the sum of $115,000.00 by agreement made on April 18, 1972, with the understanding that Defendant would pay a seven per cent sales commission to William L. Murphy, trading as Murphy Realty Company. This agency agreement or "listing" was to be in force for a period of thirty days.

3. That William L. Murphy assigned the listing agreement in part to plaintiffs by delivering a paper to them promising that if plaintiffs found a purchaser for the property during the listing

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period, William L. Murphy would "50/50 split commission" with "BONUS $500.00 to any salesman selling this property."

4. On April 28, 1972, plaintiffs communicated an offer to purchase the property by one Reliance Insurance Agency, which offer was executed by one Charles C. Skinner, President. This offer bore the signatures of Skinner, Reich and Murphy.

5. That on May 9, 1972, defendant signed a contract of sale with "Charles C. Skinner or assigns", without the knowledge of plaintiffs.

6. That the contract dated May 9, 1972, was consummated and closed.

7. That no commission has been paid either plaintiffs or William L. Murphy, trading as Bill Murphy Realty Company, after repeated demands for payment.

8. That plaintiffs were the efficient procuring cause of producing a buyer ready, willing and able to settle and that a sale was, in fact, made during the pendency of the listing agreement thereby entitling recovery under defendant's listing contract with William L. Murphy, which was partially assigned to plaintiffs.

WHEREFORE your plaintiffs move this court for a judgment against the defendant in the amount of Four Thousand Five Hundred and Twenty-five and 00/100 ($4,525.00) Dollars, together with the costs of this action and interest from the date of judgment.

CHARLES A. REICH
HENRY-HANSON-REALTY CORPORATION
Filed: May 3, 1973

Charles A. Reich, et al., v. Martha M. Kimnach, et al.

ORDER

THIS DAY came A. Andrew Ege, Jr., attorney for Martha M. Kimnach, and states unto the Court that an Answer on behalf of the defendant is due on this day. That by agreement of John B. Dinsmore, attorney for plaintiff, and A. Andrew Ege, Jr., attorney for the defendant, it is hereby agreed that the defendant shall be allowed ten (10) days from entry of this Order to file her Answer.

It is ORDERED, ADJUDGED AND DECREED that the defendant be allowed ten (10) additional days from the date of the entry of this Order to file her Answer.

Entered: May 29, 1973

ANSWER

NOW COMES the defendant, Martha M. Kimnach, and in Answer to the Motion for Judgment exhibited against her, states as follows:

1. That she denies she is indebted to the plaintiffs in any amount.

2. That the allegations of Paragraph One are unknown to this defendant and she neither affirms nor denies them.

3. That the allegations of Paragraph Two are expressly denied and strict proof is demanded thereof.

4. The the (sic.) allegations of Paragraphs Three and Four are unknown to this defendant and she neither affirms nor denies them.

5. That on May 9, 1972, William L. Murphy, t/a Murphy Realty Company, represented to Martha M. Kimnach that he was representing the interests of Charles Skinner, that William L. Murphy, t/a Murphy Realty Company, brought Charles Skinner to the office of Martha M. Kimnach's attorney and had a prepared contract of sale with him.

That William L. Murphy stayed in the office of the defendant's attorney while a contract was prepared by attorneys for Martha M. Kimnach and signed by Martha M. Kimnach and Charles Skinner specifically crossing out the real estate commission provision. This fact was known to William L. Murphy. That Charles Skinner said William L. Murphy was his agent and any commission that was due Mr. Murphy would be paid for by Charles Skinner.

That the defendant, Martha M. Kimnach, had no knowledge that plaintiffs were in any way involved in this transaction.

6. That the allegations of Paragraph Seven are unknown to this defendant except that she specifically denies that repeated demands for payment have been made to her and demands strict proof thereof.

7. That the allegations of Paragraph Eight are unknown to this defendant and she neither affirms nor denies them since at no time did she know that plaintiffs were involved in this transaction.

8. That the defendant, Martha M. Kimnach, is in no way bound by any agreements or transactions, between plaintiff and William L. Murphy and/or plaintiffs and Charles Skinner since defendant had no knowledge of any such agreements or transactions and in no way authorized or agreed to same.

9. That at no time did defendant agree to or discuss a specific amount, or any amount, of commission with anyone involved in the above described transaction.

10. That your defendant, Martha M. Kimnach, affirmatively pleads the Statute of Fraud concerning any alleged agreements or

authorizations prior to signing the contract on May 9, 1972, since any such agreements or authorizations were oral.

WHEREFORE, the defendant, Martha M. Kimnach, prays that the matter exhibited against her be dismissed and her costs awarded to her.

MARTHA M. KIMNACH
Filed: June 20, 1973

THIRD PARTY MOTION FOR JUDGMENT

NOW COMES the Third Party Plaintiff, Martha M. Kimnach, and for her Third Party Motion For Judgment against the Third Party Defendants, William L. Murphy, Jr. and Charles C. Skinner, states as follows:

1. That the plaintiffs have instituted this action seeking recovery from Martha M. Kimnach for a commission allegedly due them as a result of the sale of her real property located at 1612 Arnold Circle, Virginia Beach, Virginia (a copy of plaintiff's Amended Motion for Judgment is attached hereto as Exhibit "A".)

2. That Martha M. Kimnach has denied any indebtedness to the plaintiffs in any amount (a copy of defendant third party plaintiff's answer is attached hereto as Exhibit "B".)

3. That on May 9, 1972, William L. Murphy, Jr., t/a Murphy Realty Company, represented to Martha M. Kimnach that he was representing the interests of Charles C. Skinner; that William L. Murphy, Jr., t/a Murphy Realty Company, brought Charles C. Skinner to the office of Martha M. Kimnach's attorney and had a prepared contract of sale for the aforementioned real estate with him. That William L. Murphy, Jr. remained in the office of Martha M. Kimnach's attorney while a contract was prepared by attorneys for Martha M. Kimnach and signed by Martha M.

Kimnach and Charles C. Skinner, specifically crossing out the real estate commission therein. That this fact was known to William L. Murphy, Jr. That Charles C. Skinner explained that William L. Murphy, Jr. was his agent and any commission that was due Mr. Murphy would be paid by Charles C. Skinner.

4. That Martha M. Kimnach had no knowledge that plaintiffs were in any way involved in this transaction.

5. That Martha M. Kimnach is in no way bound by any agreements or transactions, between plaintiff and William L. Murphy, Jr. and/or plaintiffs and Charles C. Skinner, since Martha M. Kimnach had no knowledge of any such agreements or transactions and in no way authorized or agreed to same.

6. That at no time did Martha M. Kimnach agree to or discuss a specific amount, or any amount, of commission with anyone involved in the above described transaction.

WHEREFORE, Martha M. Kimnach, as third party plaintiff moves for judgment against William L. Murphy, Jr. and Charles C. Skinner, Third Party Defendants, in an amount equal to any and all sums recovered of her by the plaintiffs and her costs and expenses, including attorney's fees incurred in the defense of this action.

MARTHA M. KIMNACH
Filed: August 9, 1973

ORDER

THIS CAUSE came to be heard on October 5, 1973, upon the motion of Martha M. Kimnach for the entry of an order allowing her to take leave of Court to file a Demurrer to the Amended Motion for Judgment of Charles A. Reich in the above styled matter, and was argued by counsel.

WHEREUPON, it is ADJUDGED, ORDERED and DECREED that the motion of Martha M. Kimnach to take leave of Court to file a Demurrer to the Amended Motion for Judgment of Charles A. Reich in the above styled matter be overruled.

Entered: October, 1973.

DEMURRER

NOW COMES your defendant, Martha M. Kimnach, by counsel, and states that the Amended Motion for Judgment exhibited against her is insufficient at law upon the following grounds:

1. That the statute of fraud prohibits any alleged agreements or authorizations prior to the signing of the contract on May 9, 1972, as any such agreement or other authorizations were oral and not in writing.

2. That there lacks privity of contract between Charles A. Reich and Martha M. Kimnach as any alleged agreement entered into by Mrs. Kimnach was with William L. Murphy, and he alone.

3. That your plaintiff was not the agent of third-party defendant, Charles C. Skinner, in the purchase of that property designated as Lot 45, Alanton, in the City of Virginia Beach, and consequently lacks standing to sue for any alleged breach of that agency relationship.

4. That no debt was created in favor of your plaintiff against your defendant as no commission was to be paid to anyone involved in the aforementioned transaction for the sale of the aforementioned property; consequently your plaintiff has no obligation upon which he may rest his claim.

5. That there being no contract between plaintiff and defendant nor a tort committed by the defendant against the plaintiff, there is no cause of action at law upon which the plaintiff may recover.

MARTHA M. KIMNACH
Filed: October 31, 1973

ORDER

THIS CAUSE came on to be heard on October 5, 1973, upon the motion of Charles A. Reich, et al, for the entry of an order granting him a default judgment against Martha M. Kimnach in the above styled matter, and was argued by counsel.

WHEREUPON, it is ADJUDGED, ORDERED and DECREED that the motion of Charles A. Reich, et al, for default judgment entered in his favor against Martha M. Kimnach in the above styled matter be overruled.

Entered: December 10, 1973

ORDER

THIS ACTION came to be heard on November 16, 1973, upon motion of Martha M. Kimnach for the entry of an Order vacating the Order of October 5, 1973, in which the Circuit Court of the City of Virginia Beach refused to grant leave of Court to Martha M. Kimnach so that she might file a Demurrer to the Amended Motion for Judgment in the above styled action.

WHEREUPON, it is ADJUDGED, ORDERED and DECREED that the Order of the Circuit Court of the City of Virginia Beach entered on October 5, 1973, refusing Martha M. Kimnach leave of court to file a Demurrer to the Amended Motion for Judgment in the above styled action, be vacated.

Entered: December 10, 1973

Charles A. Reich, et al., v. Martha M. Kimnach, et al.

ORDER

THIS ACTION came to be heard on November 16, 1973, upon motion of Martha M. Kimnach to take leave of Court to file a Demurrer to the Amended Motion for Judgment of Charles A. Reich, et al, in the above styled action, and was argued by counsel.

WHEREUPON, it is ADJUDGED, ORDERED and DECREED that Martha M. Kimnach be granted leave of Court to file a Demurrer to the Amended Motion for Judgment of Charles A. Reich, et al, in the above styled action.

Entered: December 10, 1973

ORDER

This day came plaintiffs, by counsel, and moved to non-suit this action without prejudice to their claims against any parties which are now or have been parties to this action whether those claims be in tort or in contract; and

It appearing to the Court that allowing the plaintiffs to withdraw their action at this time would serve the ends of justice and that since this action has not been tried ore tenus or a judgment been awarded herein, that plaintiffs' filing does not constitute an election of remedies that would bar plaintiff's bringing another action in this or another forum growing out of the same circumstances;

Charles A. Reich, et al., v. Martha M. Kimnach, et al.

It is therefore Ordered, Adjudged, and Decreed that plaintiff's action be non-suited without prejudice to their right to bring further proceedings against the defendant herein or third parties at a future time.

Entered: December 18, 1973

I ask for this:

/s/ John B. Dinsmore p.q.

Seen and agreed:

/s/ John W. Drescher p.d.

ORDER

This action came to be heard on February 1, 1974, after due notice to all parties, and was argued by counsel.

Whereupon, and it appearing to the Court that an Order entered herein on December 18, 1973, was entered without notice to or endorsement by all parties as required by Rule 1:13, it is ADJUDGED, ORDERED and DECREED that the Order entered herein on December 18, 1973, be, and it hereby is, set aside.

Entered: February 1, 1974.

Charles A. Reich, et al., v. Martha M. Kimnach, et al.

ORDER

THIS ACTION came to be heard on November 16, 1973, upon motion of Martha M. Kimnach for the entry of an Order sustaining her Demurrer filed to the Amended Motion for Judgment of Charles A. Reich, et al, in the above styled matter, and was argued by counsel.

WHEREUPON, it is ADJUDGED, ORDERED and DECREED that the Demurrer of Martha M. Kimnach to the Amended Motion for Judgment of Charles A. Reich, et al, be sustained.

It is further ADJUDGED, ORDERED and DECREED that Charles A. Reich, et al, be allowed 21 days from the entry of this order to file an Amended Motion for Judgment in the above styled matter.

It is further ADJUDGED, ORDERED and DECREED that all parties to the above styled action are now dismissed subject to being joined as parties to any subsequent suit which might be brought within the 21 days of the entry of this order.

Entered: "November 16, 1973, NUNC PRO TUNC - February 1, 1974"

Charles A. Reich, et al v. Martha M. Kimnach, et al.

(THIRD) AMENDED MOTION FOR JUDGMENT

CHARLES A. REICH and HENRY-HANSON-TUCKER REALTY CORPORATION, Plaintiffs,	)	
v.	)	AT LAW NO. 15,922
WILLIAM L. MURPHY, JR., T/A MURPHY REALTY CO., Defendants.	)	

Your Plaintiffs, Charles A. Reich and Henry-Hanson-Tucker Realty Corporation, move this Court for judgment against the Defendant William L. Murphy, Jr., in the amount of FOUR THOUSAND FIVE HUNDRED TWENTY FIVE DOLLARS ($4,525.00) which is justly due and owing for the following reasons; to-wit:

1. That your Plaintiff, Charles A. Reich, is a real estate salesman duly licensed under the laws of this Commonwealth and in the employ of Henry-Hanson-Tucker Realty Corporation, a real estate brokerage firm duly licensed under the laws of this Commonwealth.

2. That during the month of April, 1972, your Plaintiff, Charles A. Reich, entered into a contract with Defendant, William L. Murphy, Jr., whereby, your Plaintiff, Charles A. Reich, was employed by Defendant to procure a buyer for a particular piece of real property located in the City of Virginia Beach.

3. That your Plaintiff, Charles A. Reich, was the sole, efficient, procuring cause of a purchaser ready, willing and able to purchase the property at the price and under the terms set forth in the aforementioned contract as evidenced by the fact that a purchaser who was shown the property by Plaintiff and who submitted written offers

to purchase the property through Plaintiff and, in fact, purchased the property in accordance with the Defendant's requirements.

4. That Defendant breached said contract by not tendering to Plaintiffs the consideration called for in the said contract despite Plaintiffs' demand.

WHEREFORE, your Plaintiffs move this Court for judgment against Defendant in the amount of $4,525.00 together with the costs of this action and interest from the date Defendant breached said contract.

CHARLES A. REICH
HENRY-HANSON-TUCKER REALTY CORPORATION
Filed: February 6, 1974

NOTICE

TAKE NOTICE That on Wednesday, March 20, 1974, at 9:30 A.M., or as soon thereafter as counsel may be heard, the undersigned will move this Court for entry of an Order dismissing the Amended Motion for Judgment filed herein.

WILLIAM L. MURPHY, JR.

By /s/ Bruce G. Murphy

MURPHY, BENNETT & BASNIGHT, Ltd.
500 Beach Tower
3330 Pacific Avenue
Virginia Beach, Virginia

I certify that a true copy of the foregoing pleading was mailed or delivered to all counsel of record this 20th day of March, 1974.
/s/ Bruce G. Murphy

ORDER

THIS ACTION Came to be heard this day upon plaintiffs' motion for default judgment and defendant's motion to dismiss plaintiffs'

amended motion for judgment, and the matter was argued by counsel.

WHEREUPON, it is ordered that plaintiffs' amended motion for judgment be, and it hereby is, dismissed with prejudice, and it is further ordered that this action be stricken from the docket and the papers herein placed among the ended actions of the Court properly indexed to all of which actions of the Court, the plaintiffs by counsel duly excepts.

Entered: March 20, 1974

NOTICE OF APPEAL AND
ASSIGNMENTS OF ERROR

* * * * * * * *

1. The Court erred in the entry of its order of September 18, 1972, in sustaining defendant William L. Murphy, Jr.'s demurrer to the motion for judgment.

2. The Court erred in the entry of its order on December 10, 1973, by failing to grant plaintiff's motion for a default judgment against defendant Martha W. Kimnach inasmuch as said defendant failed to file a timely answer to the amended motion for judgment; said defendant having filed an answer, without leave of court, twelve days after a ten-day agreed extension of the required twenty-one day rule had elapsed.

3. The Court erred in granting leave to defendant Martha M. Kimnach to file a demurrer to plaintiff's amended motion for judgment, inasmuch as said defendant had previously filed an answer to the amended motion for judgment and had filed the answer without leave of court, which was required inasmuch as the time for filing an answer had expired.

4. The Court erred in the entry of its order on December 10, 1973, which vacated a previous order denying defendant Martha M. Kimnach leave to file a demurrer to the amended motion for judgment, inasmuch as more than twenty-one days elapsed between the order denying leave to file the demurrer and the order vacating the denial.

5. The Court erred in the entry of its order on February 1, 1974, which sustained defendant Martha M. Kimnach's demurrer to the amended motion for judgment, inasmuch as the reasons set forth in support of the demurrer are insufficient to sustain the demurrer and inasmuch as the demurrer was not timely filed.

6. The Court erred in the entry of its order on February 1, 1974, which vacated the Court's order which was entered on December 18, 1973, granting plaintiffs a non-suit inasmuch as the non-suit order was endorsed "Agreed" by all counsel then of record; further that the party moving for vacation of the non-suit order was third-party defendant, William L. Murphy, Jr., who was not then a party to the amended motion for judgment in accordance with the court's ruling of November 16, 1974, and as such he had no standing to object to the entry of the non-suit order nor to move for an order vacating the non-suit order and further, that the entry of the order vacating the non-suit order occurred more than twenty-one days after entry of the non-suit order.

7. That assuming the non-suit order was improperly entered and the order vacating the entry of non-suit order was properly entered, then the court erred in dismissing the last amended motion for judgment, which was filed on February 6, 1974, inasmuch as the last amended motion for judgment was timely filed and states a good cause of action,

and inasmuch as counsel for William L. Murphy, Jr., failed to give timely notice of his motion to dismiss the last amended motion for judgment prior to entry of the Court's order.

Filed: April 11, 1974

ADDENDUM TO NOTICE OF APPEAL
AND ASSIGNMENTS OF ERROR

* * * * * * * * *

No transcript or statement of facts or testimony will be filed in this appeal.

Filed: April 11, 1974

MURPHY EXHIBIT 1

Commonwealth of Virginia, City of Virginia Beach, To-wit: to the High Constable of said City:

I hereby command you in the name of the Commonwealth to summon William L. Murphy, Jr., 1321 Rolfe Lane, Virginia Beach, Virginia, to appear before the Judge of Municipal Court of the City of Virginia Beach, to try this warrant, at City Hall, Borough of Princess Anne, Princess Anne, Virginia, in said City, on the 24th day January 1974-10:AM to answer the complaint of Charles A. Reich upon a claim for money, to-wit: for the sum of $4,525.00 due

Breach of Contract

with interest from until paid, and costs, and then and there make your return.

Given under my hand this 9th day of January 1974.

Justice of the Peace

Charles A. Reich, et al., v. Martha M. Kimnach, et al.

MURPHY EXHIBIT 2

COMMONWEALTH OF VIRGINIA

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

L-38

NOTICE OF MOTION FOR JUDGMENT

To: William L. Murphy, Jr.
t/a Murphy Realty Co.
1321 Rolfe Lane
Virginia Beach, Virginia

You are hereby notified that unless within twenty-one (21) days after service of this Notice of Motion for Judgment on you, response is made filing in the Clerk's Office of this court a pleading in writing in proper legal form, judgment may be entered against you by default, without further notice.

Done in the name of the Commonwealth of Virginia, this 25th day of January, 1974.

JOHN V. FENTRESS, Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

CHARLES A. REICH and HENRY-HANSON-TUCKER REALTY CORPORATION Plaintiffs	)	
v.	)	AT LAW
WILLIAM L. MURPHY, JR., t/a MURPHY REALTY CO. 1321 Rolfe Lane Virginia Beach, Virginia Defendants	)	

MOTION FOR JUDGMENT

Your Plaintiffs, Charlie A. Reich and Henry-Hanson-Tucker Realty Corporation, move this Court for judgment against the Defendant William

L. Murphy, Jr., in the amount of FOUR THOUSAND FIVE HUNDRED TWENTY FIVE DOLLARS ($4,525.00) which is justly due and owing for the following reasons, to-wit:

1. That your Plaintiff, Charles A. Reich, is a real estate salesman duly licensed under the laws of this Commonwealth and in the employ of Henry-Hanson-Tucker Realty Corporation, a real estate brokerage firm duly licensed under the laws of this Commonwealth.

2. That during the month of April, 1972, your Plaintiff, Charles A. Reich, entered into a contract with Defendant, William L. Murphy, Jr., whereby, your Plaintiff, Charles A. Reich, was employed by Defendant to procure a buyer for a particular piece of real property located in the City of Virginia Beach.

3. That your Plaintiff, Charles A. Reich, was the sole, efficient, procuring cause of a purchaser ready, willing and able to purchase the property at the price and under the terms set forth in the aforementioned contract as evidenced by the fact that a purchaser who was shown the property by Plaintiff and who submitted written offers to purchase the property through Plaintiff and, in fact, purchased the property in accordance with Defendant's requirements.

4. That Defendant breached said contract by not tendering to Plaintiffs the consideration called for in the said contract despite Plaintiffs' demand.

WHEREFORE, your Plaintiffs move this Court for judgment against Defendant in the amount of $4,525.00 together with the costs of this action and interest from the date Defendant breached said contract.

CHARLES A. REICH
HENRY-HANSON-TUCKER REALTY CORPORATION

Charles A. Reich, et al., v. Martha M. Kimnach, et al

MURPHY EXHIBIT 3

COMMONWEALTH OF VIRGINIA

VIRGINIA REAL ESTATE COMMISSION

RICHMOND

BEFORE THE VIRGINIA REAL ESTATE COMMISSION

IN VIRGINIA BEACH, VIRGINIA

Charles A. Reich — Complainant

v.

William L. Murphy, Jr., Broker — Defendant
Murphy Realty Company
Virginia Beach, Virginia

OPINION AND ORDER NO. 72-73-18

Re: Case No. 5783

This matter was properly instituted by the Complainant in accordance with Sections 54-762 and 54-763, Code of Virginia, 1950, as amended, notice having been given by certified mail to all interested parties at least ten days prior to the date of the hearing held on January 5, 1973 at 10:00 a.m. in Council Chambers, City of Virginia Beach, Virginia.

The Complainant, Charles A. Reich, represented by John B. Dinsmore, Attorney at Law, Norfolk, Virginia, appeared in person and under oath gave testimony in his own behalf.

Doris G. Haislip, Investigator, Commonwealth of Virginia, Department of Professional and Occupational Registration, Charles C. Skinner, James R. McHenry and Martha M. Kimnach appeared in person and under oath gave testimony in behalf of the Complainant.

The Defendant, William L. Murphy, represented by Bruce G. Murphy, Attorney at Law, Virginia Beach, appeared in person and under oath gave testimony in his own behalf.

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From the evidence taken and submitted at the hearing, the Virginia Real Estate Commission is of the opinion and doth so find that William L. Murphy, Jr. did not violate Section 54-762, Code of Virginia, 1950, as amended, or Rules and Regulations of the Virginia Real Estate Commission.

The Virginia Real Estate Commission, therefore, orders that charges against the Defendant be and hereby are dismissed.

This Opinion and Order has been entered this first day of February, 1972, A.D.

/s/ Walter A. Garbee, Jr., Chairman

/s/ Albert W. Highsmith

/s/ John C. Glasgow

/s/ Neville C. Johnson

/s/ J. Wesley Stone