



JUDICIAL MERIT SELECTION COMMISSION

In the Matter of: **TARITA DUNBAR**
Candidate for 13th Judicial Circuit, Seat 5
Greenville, SC

WITNESS AFFIDAVIT

COMPLAINANT
CYNTHIA GLENN
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GRAY COURT, SC 29645
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SOUTH CAROLINA FAMILY COURT
GREENVILLE COUNTY
APRIL ABBOTT V. MARK GUION case # 2015-DR-23-0184

ATTORNEY FOR PLAINTIFF:
Brian Johnson
522 North Church Street
Greenville SC 29601
864-331-1630

ATTORNEY FOR DEFENDANT:
Elizabeth D. Medlin
PO Box 876
Laurens, SC 29360
864-681-1341

GUARDIAN AD LITEM
Milford Chip Howard
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Phone: 864-832-2015

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession which will further develop or corroborate my testimony. I understand testimony must be available at the Public Hearing.

In regard to intended testimony, I will offer information as to the following:

STATEMENT OF FACTS:

The Honorable Tarita Dunbar presided over this hearing in Greenville County. The original complaint for change of custody was filed in May 2014 by Abbott (mother). The hearing in question was scheduled by the guardian ad litem (GAL) as a 'Second Temporary Hearing.'

In this case two mothers combined efforts filing complaints almost simultaneously to gain an advantage and custody of their children from Defendant Guion (father). In the Abbott case, although the divorce agreement officially said shared custody, father had been the primary provider/custodian for the child's entire life.

The second mother was represented by Kimberly Dunham, also in Greenville County. The two cases are separate with very dissimilar circumstances. Second mother lived locally, divorce occurred two year prior to the original complaint and father was awarded 50/50 shared custody in final orders. Dunham's client filed shortly after Abbott. Although the change of circumstance allegations were still pending at the time of this hearing, they were eventually disproven at final hearings.

This 'Second Temporary Hearing' was requested by Guardian ad litem, Howard after a similar hearing request was denied for the mother. At the time the hearing was requested by GAL, there were two Rule to Show Cause hearings pending; mother filed in June and Father filed in August.

During final hearings, father suffered a stress related heart attack. He survived the first surgery, but later died from complications. This complaint is being submitted by Cynthia Glenn, stepmother, widow and witness to the events.

My observation of Tarita Dunbar's performance of her duties revealed many violations of Rules, SC Code of Laws and Court Orders through her actions and the conduct she permitted by attorneys under her jurisdiction. She has shown an unwillingness to treat persons in her courtroom with civility, fairness, and respect.

It is my believe that Judge Tarita Dunbar violated Professional Rules of Conduct and

Code of Judicial Conduct by failing to maintain ORDER AND DECORUM, ABANDONMENT OF RULES AND LAWS and being susceptible to COERCION and is not fit for service and should be disqualified as a judicial candidate.

CLAIM ONE: ORDER AND DECORUM:

Tarita Dunbar's courtroom showed a complete disregard for decorum. The proceeding unfolded with chaos and without order which robbed the family of due process and a fair hearing. Dunbar appeared to be a pawn in her own courtroom, used as a mockery of the system.

Judge Dunbar was unable to control the environment and thereby allowed hearings to proceed outside of rules with obvious bias and misconduct from attorneys. She allowed misconduct of lawyers and the Rule of Professional Conduct to be repeatedly broken. Despite her admitted recognition of legitimate arguments made by the defendant and lack of evidence established by the plaintiff, she appeared to cower to the harassment and persuasion of the attorneys in her courtroom.

In a fifteen minute hearing, Dunbar allowed attorneys to interrupt her and each other on more than 10 Separate occasions. She conducted a hearing that was unruly and chaotic. The most significant incident occurred with Kimberly Dunbar insisted on testifying over the objection of Defendant's counsel. Dunbar did not rule on any objections and Dunbar insisted: *"MS. DUNHAM: Your Honor, let me finish before I was so—[rudely] interrupted;..."* (tr. pg. 23 L.22)

Transcript pg. 18 L. 19

Transcript pg. 15 L. 6

Transcript pg. 20 L. 21

Transcript pg. 21 L. 10-12

Transcript pg. 22 L. 24

Transcript pg. 23 L. 10-11, 22, 25

Transcript pg. 24 L. 7, 13

Transcript pg. 25 L. 4, 6

Judge Dunbar appeared to have prepared for court and was familiar with the case, she argued with the GAL over some obvious inconsistencies but did not insist that Rules be followed. The lack of enforcement only escalated the mood of the courtroom and eventually it erupted into chaos. (Tr. pg. 6 L. 9-13, pg 7 L. 8-10)

At one point, Judge Dunbar pointed out an obvious lack of Candor toward the Tribunal when neither the Plaintiff nor the guardian could decide where the child had resided for

13 years and who had been the primary caregiver. She acknowledged the mother was coercing the child with home school. Yet, even after noting the lack of candor, she allowed the case to continue with the charade.

Transcript pg.14-15

18 THE COURT: I'm just concerned that could it be possible, and I'll ask the guardian to chime in,
19 that this child might have been upset that the mother had moved and maybe this is part of
20 it, that he was upset that she moved and that—I'm just a little concerned, ma'am, that the
21 only reason you came back is because of your husband's father, that he was sick and not
22 come back because of your child.

23 MS. ABBOTT: It was not—

24 THE COURT: And maybe that child was just upset, those feelings—I don't know.

25 I'm not a psychologist or a psychiatrist—

1 MS. ABBOTT: I understand.

2 THE COURT: —and the child could have been missing you and maybe that
3 upheaval caused some imbalance because the child had sort of an arrangement how y'all
4 were doing things and he was fine at that point. And then when you moved this is when
5 the problems came, and at his age—I don't know, I'm just saying.

(Exhibits: Transcript Aug 18, 2015 pg. 15 L.25-pg. 16 L.4, Exhibit 10:

Marsh Transcript Nov. 15, 2016 pg.

39 1.21-25)

Transcript pg. 17 L. 9 We of

10 course are very concerned with the fact that P _____ has eluded to the fact that he doesn't

11 want to go to school and that mom is going to allow him to attend online school or be

12 home schooled.

(Exhibit 5: Transcript Aug 18, 2015 pg. 17 L. 9-12, Exhibit 2: Second Temp
Order by Dunbar 3.(d))

CLAIM TWO: ABANDONMENT OF RULES AND LAWS

In addition to being unable to maintain order and Decorum, Dunham's court operated outside of the SC Code of Laws, SC Supreme Court orders and Rules. The attorneys were allowed to 'ad-hock' their evidence and submissions without following standard rules of evidence and due process. It was the lack of rules that created a courtroom without decorum as all parties fought for their own agenda without the oversight of a competent judge.

A. Rules For Temporary Hearings

Judge Dunbar's primary mistake was that she allowed a 'Second Temporary Hearing' request by the GAL. It was this error that escalated into chaos.

- 1) A 'Second' Temporary Hearing does not follow South Carolina Supreme Court orders or SC Code of Laws.¹

¹ Pursuant to Article V, Section 4 of the South Carolina Constitution.

- a. This hearing was scheduled 168 days after the filing of the original motion violation SC Supreme Court Orders, "in no event later than four weeks of the filing of the motion"
 - b. GAL report and counselor notes were not submitted until the morning of the hearing as well as text messages from a rule to show cause submitted during the hearing and the ENTIRE CASE file for Kimberly Dunham's client reviewed AFTER the hearing. These actions violate Rules of Service and admissible evidence.
- 2) A 'Second Temporary Hearing' had already been justifiably denied when requested by the Plaintiff less than one month before it was requested by the GAL. (ex. 12)
 - 3) The GAL showed no just cause for the need of the hearing. The Final hearings were not scheduled for 7 months (at the end of the school year) and the actual Final Hearing did not occur for more than 12 months. (Tr. pg. 5 L. 3)
 - 4) There were two open Rules to Show Cause hearings when the GAL filed his Motion. The Contempt should have been addressed and resolved BEFORE the hearing would have been appropriate. (Ex. 11, 12)
 - 5) The GAL had barely begun his investigation. He had not yet addressed major issues in the complaint or counterclaim that:
 - a. Drug use of Plaintiff and Stepfather (Tr. pg. 21 L5-9, 18, EXHIBIT 6: GAL report pg. 7, Exhibit 7: Affidavit of Guion, Exhibit 8: GAL drug email. Exhibit 9: Medlin/attorney email. Exhibit 10: Marsh Transcript Nov. 15, 2016 pg. 40)
 - b. Arrest records of Plaintiff including DUI and selling alcohol to a minor (tr. pg.21 L. 6, 18; Ex 6, 7, 8, 16)
 - c. The GAL also seemed to have an inability to ascertain where the child had lived for the past 13 years. The GAL took advantage of Dunbar's unwillingness to follow rules and showed lack of candor to the tribunal by stating that the mother "reluctantly agreed for the child to reside with the Defendant/Father" when she left town as if the child had been living with her prior to the move. The GAL does admit that the mother didn't even move to the child's town until he was in 1st grade.

IT IS ORDERED that the following procedures shall apply to all Temporary Hearings scheduled after the date of this Order:

1. Hearings on Motions for Temporary Relief shall be set as quickly as possible, but in no event later than four weeks of the filing of the motion...in order for both sides to have adequate time to prepare for the temporary hearing, service of the Motion for Temporary Relief should be completed as expeditiously as possible...5. All routine Temporary Hearings shall be allotted fifteen minutes and each party shall be limited to eight pages of affidavits....

(GAL report pg. 2 par. 8)

d. The mother and stepfather's instability with employment and residence.
(tr. pg 21 L.5)

- 6) Temporary hearings are set for 15 minutes. These hearings set the groundwork for all parties to prepare and return for a final hearing with testimony, witnesses and hearings. Defendants are not able to prepare a proper defense for a 15 temporary hearing because they are not allowed to have witnesses, discovery and substantial evidence. Additionally 15 minutes is an insufficient allotment of time to determine the fate or placement of a child. By allowing the 'Second' Temporary Hearing to proceed, Dunbar undermined the integrity of the judiciary. Such violation of SC Supreme Court Orders, Rules and Code of Laws serves only to violate the Defendant's Due Process Rights and gives an unfair advantage to one party. (Exhibit 1: Original Complaint Cover Letter, Exhibit 2: Second Temp Order by Dunbar, Exhibit 3: SC Supreme Court Order Code of Laws, GAL Report, Rule 21)

Not Only should the hearing have been dismissed per rules; but Dunbar allowed a torid of other unethical conduct at the hearing.

B. Guardian ad Litem Laws and Orders (Ex. 14, 15, 3)

- 1) South Carolina Code of Laws do not recognize a private guardian ad litem authority to request a hearing as a party, especially when the hearing has already been denied after the request of a true party of interest. Dunbar allowed the GAL to usurp the authority of a different judge who had already denied the request.
- 2) SC Code of Laws states that the GAL must submit his report 20 days prior to final hearings. There is no authority for a '~~Second~~' Temporary Hearing; therefore the rules for Temporary Hearings and rules of evidence should be upheld.² (SC Code SECTION 63-3-830) The "Second" hearing is an unethical tactic used by the GAL and approved by Judge Dubar.
- 3) Once inside the courtroom, the GAL had an additional 'sticky note' report. The GAL reported that the child reported having been grabbed and carried by the throat, yet the GAL didn't bother to attempt to gain ANY

² SCRFC RULE 21 TEMPORARY RELIEF (a) *Motion for Temporary Relief.* A written motion for temporary relief, and notice of the hearing thereof, shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by order of the court. In an emergency situation, such order may be made on ex parte application. (b) *Evidence at Hearing.* Evidence received by the court at temporary hearings shall be confined to pleadings, affidavits, and financial declarations unless good cause is shown to the court why additional evidence or testimony may be necessary.

verification of the event. He did not question either parent or interview grandparents and family members who were present. (trs. Pg. 4 L.15,19; pg.11 L.18-24)

- 4) The GAL took advantage of Dunbar's unwillingness to follow rules and showed lack of candor to the tribunal by stating that the mother "reluctantly agreed for the child to reside with the Defendant/Father" when she left town as if the child had been living with her prior to the move. The GAL does admit that the mother didn't even move to the child's town until he was in 1st grade (GAL report pg. 2 par. 8).
- 5) GAL report and counselor notes were not submitted until the morning of the hearing as well as text messages from a rule to show cause submitted during the hearing (tr. pg. 24 L. 13-14) and the ENTIRE CASE file for Kimberly Dunham's client reviewed AFTER the hearing. These actions violate Rules of Service and admissible evidence. (Exhibit 1: Original Complaint Cover Letter, Exhibit 2: Second Temp Order by Dunbar, Exhibit 3: SC Supreme Court Order Code of Laws, GAL Report, Rule 21)

C. Rules of Evidence

1. **LAWYER AS WITNESS³**; In addition to conducting an unsanctioned hearing, Dunbar again violated Rules when she allowed a lawyer witness into the courtroom. Kimberly Dunham was allowed to speak freely in the courtroom with hearsay affidavits regarding her client in a different case. Under no circumstances should unproven allegations have been allowed to bias the hearing; testimony from opposing counsel is a clear conflict of interest and prejudices the case (Transcript pg. 4 L.3-7)

The Judge in the case involving Ms. Dunham's client had the fortitude to recuse herself from serving on both cases; yet Dunbar allowed the attorney to testify and consulted the case file. This is gross negligence and prejudice to the case (Recusal Exhibit 4)

³ **RULE 3.7: LAWYER AS WITNESS** (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless: (1) the testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered in the case; or (3) disqualification of the lawyer would work substantial hardship on the client.
(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9. **Comment [1]** Combining the roles of advocate and witness can prejudice the tribunal and the opposing party and can also involve a conflict of interest between the lawyer and client.

Brian Johnson even testifies on behalf of the counselor as to what he thinks she meant by her notes, Tr. pg. 15: L. 11-19, Ex. 13)

Dunbar went as far as to write down the case # of Dunham's client and agreed to review it prior to ruling. (Tr. pg 22 L. 6-7) And insisted the judge to look at unproven allegation in a different case (tr. pg. 23 L. 25)

TRANSCRIPT pg.22-23

*24 MS. DUNHAM: Your Honor, if I can say something. In reviewing the record if
25 you could also look at my case, which is Marsh versus Guion—and this case number
Pg. 23*

*1 might not be the actual case number—custody-my client and Ms. Guion had Joint custody
2 on a rotating schedule, 2,2,3 schedule. At a temporary hearing. Judge Conits-I believe
3 it was. Judge Conits-transferred custody to my client. I think it's imperative that you
4 review those notes because I know the. Court's, looking at whether these parties can co
5 parent—*

6 THE COURT: Yeah.

*7 MS. DUNHAM: -1145-2015, whether you can co-parent; these parties can co
8 parent. And I think there's a whole lot of information in there about the inability—you
9 can't co-parent with this gentleman. I mean it's just not—*

*10 MS. MEDLIN: Your Honor, I'm gonna have to—Ms. Dunham is not an attorney
11 of record in this case. So I think to get too much into that case is really just too much.*

*PG. 24 L. 11 "THE COURT: Thank y'all; like I said, I'm gonna go over this today and I'll have a decision
before 5:00 because I know that's important."*

(Full Discussion Trans pg. 22 l. 24 - pg. 24 L. 12) (Exhibit 4: Recusal Order of judge from second case. Exhibit 5: Transcript Aug 18,2015 ps. 22, 23,24)

2. Submission of 'Counselor notes' in part and out of context without an affidavit or any witness or opportunity for cross examination. Ironically these are the same notes where the child divulges that he has been physically abused by the client of Ms. Dunham. (Ex. 13, Tr. pg. 17 L.17-25, pg. 24 L. 9-10)
3. Allowed items from a Contempt hearing that had not yet been scheduled to entered into evidence without opportunity for rebuttal.
4. Allowed the Preliminary GAL Report to be submitted without proper notice and not in affidavit form.
5. Allowed a 'sticky note' amendment to the report once inside the courtroom. An amendment that the GAL admitted to having not verified (Trans. Pg.4 L.15,19; pg. 11 L.18-25)

Dunbar's errors and lack of integrity resulted in loss of substantial rights to the parties.

D. Fairness and Candor

Tarita Dunbar's unwillingness to enforce rules in the courtroom denied parties a proper defense and failed to preserve, protect and defend the Constitution of this State and of the United States. Her inability to maintain decorum was further compromised when she did not enforce Rules of Professional Conduct and Fairness to Opposing Counsel. The 'Second' Temporary Hearing was essentially an ambush without proper notice. No tools are afforded for an opposing party to rebut testimony and evidence that is submitted outside of the rules, especially within the 15 minute allotment.

1. Anger is mentioned 11 times in the transcript and Plaintiff's attorney, Brian Johnson even testifies on behalf of the counselor as to what he thinks she meant by her notes, Tr. pg. 15:

MR. JOHNSON:

11 Judge, he took the child to the therapist. The child actually told the therapist where his anger came from. His anger came from the lack of his father spending time, the lack of--the drinking, the anger. And this therapist actually mentioned

14 that the child and the father have a lot of anger towards each other. And--

15 THE COURT: What's the anger that they have? What is that?

16 MR. JOHNSON: The anger towards each other?

17 THE COURT: Yeah.

18 MR. JOHNSON: I think it primarily comes from the fact that the father tends to choose to spend more time with Ms. Glenn than him.

However, her notes are clear. She has diagnosed the child with "Detachment" because "(Melissa) [Dunham's client]...started PHYSICALLY ABUSING him the past couple of years... he doesn't feel anymore..." (Ex. 13, Trans pg. 15 L.12-14, 25; pg. 12 L. 19, 21-22; pg. 16 L.4)

2. GAL Report neglects to mention any of the contempt accusations from either parent, some of which resulted in police involvement and direct and willful violations of the current temporary orders. (Ex 2)
3. The primary place of residence was debated by GAL no regard to legal residency, school records and affidavits. They both resolved to rely upon the child's concept of who he had decided was his primary parent; disregarding the parent that he actually lived with and the one who made and applied ALL of the rules for his life, trs. Pg. 9

MR. JOHNSON:

8 However, I would point out on page 8 of the guardian's report that the child actually told Mr. Howard that he had primarily lived with my client until she had to relocate to Myrtle Beach.

These actions were a clear attempt to mislead The Court. Even after Dunbar discovered their ploy, she allowed them to continue. (pg.12 L. 10,11, 14-16, 19, 21, 22)

Dunbar allowed her courtroom to operate in lawlessness and chaos. Her actions were

prejudicial to the administration of justice; and were RECKLESS ENDANGERMENT towards those she has been sworn to serve.

CLAIM THREE: SUSCEPTIBLE TO COERCION

Although Judge Dunbar agreed with and even defended the arguments pertaining to maintaining child placement; she allowed the attorneys to coerced her into breaking rules, entertaining hersey and violating the rules of evidence by agreeing to using unproven allegations from another court case in the pending proceedings.

Judge Dunbar allowed a temporary hearing to be set in her courtroom with a special order from a different judge. State law does not give GAL's authority to set hearings as a party neither are they allowed to break SC Supreme Court Orders for temporary hearings. Yet Dunbar was unwilling to defend the law or adhere to the rules.

Not Only did Dunbar entertain the attorney as witness statements, she allowed the attorneys to virtually overtake the courtroom, she did not rule on objections and allowed inadmissible evidence. The above actions show that she has participated in and allowed an assortment of misconduct:

1. Impartiality towards a party at the coercion of court actors ⁴
2. Violations of Public Trust⁵
3. Acted without Integrity cowering to fear and favor⁶
4. Not performed her Duties Impartially and Diligently ⁷
5. Acted with Incompetence
6. Violated valid SC Supreme Court Orders⁸

⁴ RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL A lawyer shall not: (a) seek to influence a judge, juror, member of the jury venire or other official by means prohibited by law; (d) engage in conduct intended to disrupt a tribunal; ...

⁵ RULE 501 CODE OF JUDICIAL CONDUCT PREAMBLE

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

⁶ CANON 1 A JUDGE SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

⁷CANON 3 A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY

B. Adjudicative Responsibilities. (2) A judge shall be faithful to the law⁴ and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism. (3) A judge shall require "order and decorum" in proceedings before the judge. (4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require "similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

⁸ RULE 7. GROUNDS FOR DISCIPLINE; SANCTIONS IMPOSED; DEFERRED DISCIPLINE AGREEMENT

7. Abandoned the Judge's Oath of Office⁹

Judge Tarita Dunbar had the duty to hear all proceedings fairly and with patience. She was inconsistent with that duty, to say the least. The hearing became more of a circus and Tarith Dunbar was unable to maintain control.

Tarita Dunbar does not have the moral turpitude to fulfill her duties as a judge. She allows others to break Rules and violate laws for their own benefit without holding them accountable or upholding her oath of judicial integrity.

THEREFORE: I respectfully ask of the esteemed South Carolina Judicial Merit Selection Committee that they find Tarita A. Dunbar, UNQUALIFIED for continued service and deny her application as a judicial candidate.

I certify that these statements are true to the best of my understanding. The information I have provided herein is publically available at part of the records for Abbott v. Guion in Greenville County Family Court. Portions of Marsh v. Guion/Glenn have been sealed from everyone except parties, of which I am a Defendant. I have removed the confidential info of minor children. Exhibit 6-b is attached separately and marked as confidential because there were too many possible redactions to be effective; this exhibit should not be shared outside of the JMSC.

I have no protection by the attorney-client privilege in the Dunbar case and I understand that the Commission may question parties concerning the facts and issues of the case.

(a) **Grounds for Discipline.** It shall be a ground for discipline for a judge to: (1) violate or attempt to violate the Code of Judicial Conduct or the Rules of Professional Conduct or any other applicable ethics codes; (2) willfully violate a valid order of the Supreme Court, Commission or panels of the Commission in a proceeding under these rules, willfully fail to appear personally as directed, willfully fail to comply with a subpoena issued under these rules, or knowingly fail to respond to a lawful demand from a disciplinary authority to include a request for a response or appearance under Rule 19(b)(1), (c)(3) or (c)(4); ... (9) violate the Judge's Oath of Office contained in Rule 502.1, SCACR.

⁹ **Rule 502.1 Judge's Oath** All members of the Unified Judicial System in this state shall take the following oath of office: I do solemnly swear (or affirm) that: I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States; I pledge to uphold the integrity and independence of the judiciary; I pledge, in the discharge of my duties, to treat all persons who enter the courtroom with civility, fairness, and respect; I pledge to listen courteously, sit impartially, act promptly, and rule after careful and considerate deliberation; I pledge to seek justice, and justice alone; [So help me God.]



Signature of Cynthia J. Glenn

Sworn to me this 3 day of October, 2019



Notary Public of South Carolina

My commission expires: 2-15-2027

