

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE	*	
COMMISSION		
	*	CASE NO. 2017-RE-234
V.	*	
	*	
PHILLIP M. ATWOOD		
Respondent	*	
* * * * * * * * * * * *		

CONSENT ORDER AND SETTLEMENT AGREEMENT

This matter comes before the Maryland Real Estate Commission (“Commission”) as the result of a complaint filed by Steven Broadhead (“Complainant”) on November 8, 2016. Based on the complaint and an investigation, the Commission issued a Statement of Charges and Order for Hearing dated January 9, 2019, against the Respondent Real Estate Salesperson, Phillip M. Atwood, license registration number 639989, and transmitted this matter to the Office of Administrative Hearings for a hearing on the regulatory charges. To resolve this matter without a formal hearing, the Commission and the Respondent have agreed to enter into this Consent Order and Settlement Agreement to provide for the imposition of disciplinary measures which are fair and equitable in these circumstances and which are consistent with the best interest of the people of the State of Maryland.

The Commission and the Respondent agree and stipulate as follows:

1. At all times relevant to the matters set forth in this Consent Order and Settlement Agreement, the Commission has had jurisdiction over the subject matter and the Respondent. The Respondent’s license is currently set to expire on August 21, 2019.

2. The Respondent was the seller’s agent in a real estate transaction for the property located at 2504 East Baltimore Street, located in Baltimore, Maryland. The contract was fully ratified on November 17, 2014.

3. Prior to settlement, there were numerous items which needed to be repaired or replaced. On or about December 11, 2014, an Addendum to the sales contract was executed specifying what repairs were to be completed by the sellers.

4. The repairs were not completed prior to settlement, and it was then agreed that the necessary completion of the repairs would take place post settlement.

The agreement for post-settlement repairs was never reduced to writing, and the repairs were never completed.

5. The Respondent admits that he has violated Business Occupations and Professions Article §§17-322(b)(25), (32), (33), as well as Code of Maryland Regulations ("COMAR") 09.11.02.01C and H, and 09.11.02.02A which provide:

Business Occupation and Professions Article

17-322. Denials, reprimands, suspensions, revocations, and penalties - Grounds.

(b) *Grounds.* - Subject to the hearing provisions of 17-324 of this subtitle, the Commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(25) engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;

(32) violates any other provision of this title;

(33) violates any regulation adopted under this title or any provision of the code of ethics;

Code of Maryland Regulations

09.11.02

.01 Relations to the Public.

C. The licensee shall protect the public against fraud, misrepresentation, or unethical practices in the real estate field. The licensee shall endeavor to eliminate in the community any practices which could be damaging to the public or to the dignity and integrity of the real estate profession. The licensee shall assist the commission charged with regulating the practices of brokers, associate brokers, and salespersons in this State.

H. For the protection of all parties with whom the licensee deals, the licensee shall see to it that financial obligations and commitments regarding real estate transactions are in writing, expressing the exact agreement of the parties, and that copies of these agreements are placed in the hands of all parties involved within a reasonable time after the agreements are executed.

09.11.02

.02 Relations to the Client.

A. In accepting employment as an agent, the licensee shall protect and promote the interests of the client. This obligation of absolute fidelity to the client's interest is primary, but it does not relieve the licensee from the statutory obligations towards the other parties to the transaction.

6. The Respondent consents to the entry of an Order finding that he has committed the above violations and, as penalty, agrees to a reprimand and a civil penalty of Three Thousand Dollars (\$3,000.00). The civil penalty is to be paid upon the Respondent's execution of this Consent Order and Settlement Agreement.

7. The Respondent, by entering into this Consent Order and Settlement Agreement, expressly waives the right to an administrative hearing before the Office of Administrative Hearings on the charges, the making of Findings of Fact and Conclusions of Law by an administrative law judge, any and all further proceedings before the Commission and any rights to appeal from this Consent Order.

8. The parties agree to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No 2017-RE-234, that it shall constitute a Final Order of the Commission, and shall be enforceable as such.

9. The Respondent shall abide by the provisions of the Maryland Real Estate Brokers Act and applicable regulations with regard to all relevant future activities.

10. The Respondent enters into this Consent Order freely, knowingly, and voluntarily, and with the opportunity to seek advice of counsel.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 27th
DAY OF August, 2019 BY THE MARYLAND REAL ESTATE
COMMISSION:

ORDERED, that the Respondent has violated BOP Article §§17-322(b)(25), (32), (33), Code of Maryland Regulations ("COMAR") 09.11.02.01C and H, and 09.11.02.02A; and it is further

ORDERED, that based on the violations, the Respondent be and hereby is reprimanded; and it is further

ORDERED, that based on the violations, the Respondent is assessed a civil penalty of Three Thousand Dollars (\$3,000.00), which amount is payable to the

Commission upon the Respondent's execution of this Consent Order and Settlement Agreement, and it is further

ORDERED, that the Commission's records and publications reflect the violations and civil penalty imposed on the Respondent; and it is further

ORDERED, that this Consent Order and Settlement Agreement shall constitute a Final Order of the Maryland Real Estate Commission.

MARYLAND REAL ESTATE COMMISSION:

SIGNATURE ON FILE

By: _____
MICHAEL KASNIC
Executive Director

AGREED: _____

SIGNATURE ON FILE

PHILLIP M. ATWOOD
Respondent

8/25/19

DATE

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