

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE
COMMISSION

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CASE NO. 2011-RE-344

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V.

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Austin Hsu
13140 River Road
Potomac, Maryland 20854
Lic. No. 05-520968

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CONSENT ORDER AND SETTLEMENT AGREEMENT

This matter comes before the Maryland Real Estate Commission ("Commission") predicated on a complaint filed by Wen-Hua Wu ("Complainant") on or about August 21, 2007 against Pinn-Duann (Vivian) Hsieh, an associate real estate broker affiliated with United Realty, Inc. Based on that complaint and an investigation, on or about March 17, 2011, the Commission initiated a complaint against the Respondent Austin Hsu, ("Respondent") a real estate salesperson also affiliated with United Realty, Inc., license registration number 05-520968. The Commission issued a Statement of Charges and Order for Hearing dated September 23, 2011 and transmitted this matter to the Office of Administrative Hearings ("OAH") for a hearing on the regulatory charges. The OAH scheduled a hearing for February 23, 2012 at 10:00 a.m. at the Office of Administrative Hearings in Wheaton, Maryland.

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. Pursuant to Code of Maryland Regulations (COMAR) 09.01.03.07, this matter shall be withdrawn from the OAH docket for settlement purposes.
2. The Respondent is currently licensed by the Commission as real estate salesperson affiliated with United Realty, Inc., license registration number 05-520968. 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.

3. On or about August 21, 2007, the Complainant filed a complaint against Pinn-Duann (Vivian) Hsieh. Based on the complaint and an investigation, on March 17, 2011, the Commission initiated a complaint against Respondent.

4. The Commission issued a Statement of Charges and Order of Hearing ("Charge Letter") dated September 23, 2011 alleging that the Respondent has violated Md. Code Ann., Bus. Occ. and Prof. Art. § §17-322 (b) (30), (32) and (33), 17-530 (b) (1) and (4) as well as Code of Maryland Regulations ("COMAR") 09.11.02.01H based upon his conduct as an intra-company, cooperating or buyer's agent described in the Charge Letter which arose out of a contract of sale dated September 14, 2006 for a property located at 10504 Beechnoll Lane Potomac, Maryland between the Complainant as seller and Jonathan Woehrle and Rosemary DeWitt as buyers.

5. The Commission transmitted this matter to the Office of Administrative Hearings which scheduled a hearing on the regulatory charges for February 23, 2012 at 10:00 a.m. in Wheaton, Maryland.

6. The Respondent denies that he engaged in the conduct and violated the provisions of the Maryland Code, Business Occupations and Professions Article and COMAR as alleged by the Commission in the Charge Letter. Notwithstanding, to avoid the time and expense of litigation, the Respondent consents to the entry of an Order that he has violated BOP §§ 17-322 (b) (30) and 17-530 (b) (1) that provide in pertinent part:

§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:

* * *

(30) fails to make the disclosure or provide the consent form required by §17-530 of this title;

* * *

(c) *Penalty.*—(1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, The Commission may impose a penalty not exceeding \$5000 for each violation.

§17-530 Disclosure of relationship with lessor or seller...

(b) *In general.*—(1) A licensee who participates in a residential real estate transaction as a seller's agent, buyer's agent, or as a cooperating agent shall disclose in writing that the licensee represents the seller or lessor or the buyer or lessee.

7. Based upon the violation of BOP §§ 17-322 (b) (30) and 17-530 (b) (1), pursuant to § 17-322(c), the Respondent agrees to pay a civil penalty in the amount of \$1000.00 upon his execution of this Consent Order and Settlement Agreement.

8. The Respondent further agrees to complete a 3-hour agency course and to provide to the Commission a certificate of completion from the instructor within 60 days of his execution of this Consent Order and Settlement Agreement. The 3-hour agency course referenced in this Consent Order shall be in addition to, and not substituted for, the continuing education course requirements set forth in BOP §17-315 and COMAR 09.11.06.

9. The Respondent also agrees that should he fail to pay the \$1000.00 civil penalty upon his execution of this Consent Order and Settlement Agreement and/or provide to the Commission a certificate of completion from the instructor of the 3 hour agency course referenced in this Consent Order and Settlement Agreement within 60 days of the Respondent's execution of this Consent Order, the Respondent's license shall be automatically suspended until such time as he complies with the requirements of this Consent Order and Settlement Agreement.

10. The Respondent, by entering into the Consent Order and Settlement Agreement, expressly waives the right to an administrative hearing before the OAH on the charges, the making of Findings of Fact and Conclusions of Law by an administrative law judge of the OAH, any and all further proceedings before the Commission to which he may have been entitled and any and all rights to appeal from this Consent Order and Settlement Agreement.

11. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No. 11-RE-344.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS
29th DAY OF December, 2011 BY THE MARYLAND REAL
ESTATE COMMISSION:

ORDERED that the Respondent's has violated BOP § § 17-322 (b) (30) and 17-530 (b) (1); and it is further,

ORDERED that based upon the violations, pursuant to BOP §17-322(c), the Respondent is assessed a civil penalty of \$1000.00, which is payable to the Commission upon the Respondent's execution of this Consent Order and Settlement Agreement, and it is further

ORDERED that the Respondent shall complete a 3-hour agency course and provide to the Commission a certificate of completion from the instructor within 60 days of his execution of this Consent Order and Settlement Agreement. The 3-hour agency course referenced in this Consent Order and Settlement Agreement shall be in addition to, and not substituted for, the continuing education course requirements set forth in BOP §17-315 and COMAR 09.11.06; and it is further

ORDERED that should the Respondent fail to pay the \$1000.00 civil penalty upon his execution of this Consent Order and Settlement Agreement and/or provide to

the Commission a certificate of completion from the instructor of the 3 hour agency course referenced in this Consent Order and Settlement Agreement within 60 days of the Respondent's execution of this Consent Order, the Respondent's real estate salespersons license shall be automatically suspended and shall continue to be suspended until such time as he complies with the requirements of this Consent Order and Settlement Agreement; and it is further;

ORDERED that the Commission's records and publications reflect the violation and penalty imposed on the Respondent.

MARYLAND REAL ESTATE COMMISSION:

By: *[Signature]* **SIGNATURE ON FILE**
Katherine F. Connelly
Executive Director

AGREED:

[Signature] **SIGNATURE ON FILE**
Austin Hsu, Respondent

12-29-2011
Date