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BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE *
COMMISSION *
V. * CASE NO. 2011-RE-379
*
JAMES B. DAVIDSON *
COLDWELL BANKER WATERMAN *
REALTY CO. *
109 Country Day Road, Suite 1 *
Waterman Business Park *
Chester, Maryland 21619 *
Lic. No.: 05-633394 *
* * * * *

CONSENT ORDER AND SETTLEMENT AGREEMENT

This matter comes before the Maryland Real Estate Commission (“Commission”) as the result of a complaint filed by Scott Stephens and Elizabeth Ferguson (“Complainants”) against James B. Davidson, license registration number 05-633394, the Respondent real estate salesperson (“Respondent”). Based on the complaint and an investigation the Commission issued a Statement of Charges and Order for Hearing dated November 27, 2012 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. The Respondent is currently, and was at the time of the transaction at issue, licensed by the Commission as a real estate salesperson affiliated with Coldwell Banker Waterman Realty Co., license registration number 05-633394. 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.
2. The Complainants entered into a contract to purchase a property known as 1411 Falcon Nest Court, Arnold, Maryland that was ratified by the sellers on or about December 6, 2010.
3. The Respondent acted as the buyer’s agent in the transaction.
4. The contract of sale included a Condominium Resale Notice that stated that the seller must provide to the buyers certain information required by §11-135 of the

Maryland Condominium Act, Md. Code Ann., Real Prop. Art., including condominium by-laws, not later than 15 days prior to the closing date.

5. The transaction went to settlement on January 26, 2011.

6. The Respondent failed to exercise reasonable care and diligence to ensure that the Complainants had a copy of the condominium by-laws prior to the date of settlement.

7. The Respondent admits that by failing to exercise reasonable care and diligence to ensure that the Complainants had a copy of the condominium by-laws prior to the date of settlement he has violated Business and Occupations Article, Annotated Code of Maryland ("BOP") §§17-322(b)(32) and (33), §17-532(c)(1)(vi) and COMAR 09.11.02.02A that provide:

§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:

* * *

(32) violates any other provision of this title;

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

* * *

§17-532. Duties to client.

* * *

(c) (1) A licensee shall:

* * *

(vi) exercise reasonable care and diligence;

* * *

Code of Maryland Regulations

Title 9 Department of Labor, Licensing and Regulation

Subtitle 11 Real Estate Commission

Chapter 02 Code of Ethics

.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.

8. The Respondent consents to the entry of an Order that he has violated BOP §17-322(b)(32) and (33), §17-532(c)(1)(vi) and COMAR 09.11.02.02A.

9. As penalty for the aforementioned violations, the Respondent agrees to complete a 3-hour contracts course and a 3-hour agency course and to provide to the Commission certificates of completion from the instructors of the courses within 90 days of the Respondent's execution of this Consent Order. The Respondent agrees that the 3-hour contracts course and the 3 hour agency course 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. The Respondent further agrees that should he fail to provide the certificates of completion to the Commission within 90 days of his execution of this Consent Order, the Respondent's license shall be automatically suspended until such time as he has complied with the requirements of this Consent Order.

10. The Respondent, by entering into the 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.

11. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No. 11-RE-379.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS
30th DAY OF *May*, 2013 BY THE MARYLAND REAL
ESTATE COMMISSION.

ORDERED that the Respondent has violated BOP §17-322(b)(32) and (33), §17-532(c)(1)(vi) and COMAR 09.11.02.02A. and it is further,

ORDERED that as penalty for the violations the Respondent shall complete a 3-hour contracts course and a 3-hour agency course and shall provide to the Commission certificates of completion from the instructors of the courses within 90 days of the Respondent's execution of this Consent Order. The 3-hour contracts course and the 3 hour agency course 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. Should the Respondent fail to provide the certificates of completion to the Commission within 90 days of his execution of this Consent Order, the Respondent's license shall be automatically suspended until such time as he has complied with the requirements of this Consent Order; 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 ON FILE
KATHERINE F. CONNELLY
EXECUTIVE DIRECTOR

AGREED:

DATE May 23, 2013

SIGNATURE ON FILE
JAMES DAVIDSON, Respondent

SIGNATURE ON FILE

SIGNATURE ON FILE