

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE
COMMISSION

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CASE NO. 09-RE-547

V.

*

MARY HAFER HAMILTON
LONG & FOSTER REAL ESTATE, INC. *
568-A Governor Ritchie Highway
Severna Park, Maryland 21146 *
License No. 03-48322

* * * * *

CONSENT ORDER

This matter comes before the Maryland Real Estate Commission ("Commission") as the result of a complaint filed by Veronica Jobus and Jerome Braunstein ("Complainants"). Based upon the complaint and an investigation, the Commission issued a Statement of Charges and Order for Hearing dated December 15, 2010 against the Respondent Associate Real Estate Broker, Mary Hafer Hamilton, license registration number 03-48322 and transmitted this matter to the Office of Administrative Hearings for a hearing on the regulatory charges. The OAH scheduled a hearing for March 16, 2011 at 10:00 a.m. at the OAH in Hunt Valley, Maryland. Prior to the hearing date the Commission and the Respondent agreed to enter into this Consent Order 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 and to fully and finally resolve this case without a formal hearing.

The Commission and the Respondent stipulate and agree 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.
2. The Respondent is currently licensed by the Commission as an associate real estate broker affiliated with Long and Foster Real Estate Inc., license registration number 03-48322.
3. On or about May 30, 2007 Veronica Jobus entered into a contract of sale to purchase a property known as 12347 Greenspring Avenue, Owings Mills, Maryland-21117 (hereinafter, "Property") from seller, Marshall C. Bosley, Trustee.
4. The Respondent was listing agent representing the seller in the transaction. At the time of the transaction, the Respondent was affiliated with Coldwell Banker Residential Brokerage.

5. The Property is served by a private well. Baltimore County law requires a seller to notify the buyer in writing that the property is served by a private well and requires that a separate "Notice of Well Water Law" be provided to a buyer prior to conveyance.

6. The contract of sale for the Property included an Addendum entitled "Baltimore County Notices and Disclosure Addendum." Par. 8 of that Addendum stated: "If the Property is served by, or intended to be serviced by, a private water supply, attach separate Baltimore County Well Water Notice and Addendum" (hereinafter, the referenced Baltimore County Well Water Notice and Addendum shall be referred to as the "Baltimore County Notice")

7. The Baltimore County Notice explains that under the law of Baltimore County a seller must provide a well with a water supply meeting a minimum water yield, and that unless the buyer executes a waiver of testing, the test for minimum water yield must be made prior to conveyance of the property. The Baltimore County Notice also allows the buyer to make the contract contingent on the well testing.

8. The Respondent failed to ensure that the required Baltimore County Notice was included with the contract of sale and signed by all parties to the contract and therefore failed to meet her statutory obligation towards the buyer, Veronica Jobus, the other party to the transaction.

9. In light of the above, the Respondent admits that she has violated COMAR 09.11.02.02A, and as such, is subject to disciplinary action pursuant to Business and Occupations Article, Annotated Code of Maryland ("BOP") §17-322(b)(33). COMAR 09.11.02.02A provides:

COMAR 09.11.02.02A

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 his statutory obligations towards the other parties to the transaction.

10. The Respondent consents to the entry of an Order that she has violated COMAR 09.11.02.02A. As penalty for the violation the Respondent agrees to pay a civil penalty of \$1500.00 within 30 days of the execution of this Consent Order by the Maryland Real Estate Commission.

11. The Respondent further agrees to take a 3-hour legislative course that includes instruction on Baltimore County real estate law within 60 days of her execution of this Consent Order. The 3-hour legislative 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. Respondent agrees to provide to the Commission a certificate of completion from the instructor of the 3-hour legislative course referenced in this Consent Order within one week of the completion of the 3-hour legislative course.

12. The Respondent also agrees that should she fail to comply with the requirements set forth in Paragraphs 10 and 11 above, the Respondent's license shall be automatically suspended until such time as she complies with said requirements.

13. The Respondent, by entering into the Consent Order, 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.

14. The Respondent enters this Consent Order voluntarily, knowingly, willingly and with the advice of counsel.

15. The Commission agrees to accept this Consent Order as the full and final resolution of Case No. 09-RE-547.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS
23rd DAY OF *March*, 2011 BY THE MARYLAND REAL ESTATE COMMISSION:

ORDERED that the Respondent acting as the listing agent representing the seller in a real estate transaction violated COMAR 09.11.02.02A by failing to ensure that a contract of sale included a Baltimore County Notice of Well Water Law and Addendum that was signed by all parties to the contract and therefore failing to meet her statutory obligation towards the buyer who was the other party to the transaction; and it is further,

ORDERED that the Respondent is assessed a civil penalty of \$1500.00 for the violation, which amount is payable to the Commission within 30 days of the Maryland Real Estate Commission's execution of this Consent Order; and it is further

ORDERED that the Respondent, within *90* days of her execution of this Consent Order, shall take a 3-hour legislative course that includes instruction in Baltimore County real estate law and provide to the Commission a certificate of completion from the instructor of said course within one week of the completion of the 3-hour legislative course; and it is further

ORDERED that should the Respondent fail to pay the civil penalty as set forth above, or provide to the Commission a certificate of completion from the instructor of the 3-hour legislative course referenced in this Consent Order, the Respondent's license shall be automatically suspended until such time as she complies 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:

SIGNATURE ON FILE
Mary Hafer Hamilton,
Respondent

3/14/2011
Date