

**BEFORE THE MARYLAND REAL ESTATE COMMISSION**

**MARYLAND REAL ESTATE  
COMMISSION**

\*

v.

\*

**CASE NO. 2018-RE-041**

**ANDREA TUCKER,  
Respondent**

\*

**OAH NO. DLR-REC-24-20-08941**

**and**

\*

\*

**IN THE MATTER OF THE CLAIM  
OF VERNITA PICKETT AGAINST  
THE MARYLAND REAL ESTATE  
COMMISSION GUARANTY FUND**

\*

\*

\*

\* \* \* \* \*

**OPINION AND FINAL ORDER**

This matter came before the Maryland Real Estate Commission (“Commission”) as a result of written exceptions filed by Respondent, Andrea Tucker, to the Commission’s Proposed Order of June 17, 2020. On October 24, 2019 Administrative Law Judge (“ALJ”) Susan H. Anderson held a hearing (the “ALJ Hearing”) at the Office of Administrative Hearings (“OAH”) on Claimant’s Maryland Real Estate Guaranty Fund (the “Fund”) Claim and regulatory charges issued by the Commission. On May 14, 2020, the ALJ filed a Proposed Remand Decision<sup>1</sup> in which she recommended Claimant’s claim against the Fund be denied, Respondent’s license be suspended for six (6) months, and the Commission issue a penalty against Respondent in the amount of \$500.00. On June 17, 2020, the Commission issued the Proposed Order affirming the ALJ’s Findings of Fact, approving and amending in part the Proposed Conclusions of Law, and

---

<sup>1</sup> The ALJ initially filed a Proposed Decision on January 10, 2020. The Commission reviewed that Proposed Decision and on March 9, 2020 remanded the matter back to the ALJ for further review because a charge had not been considered.

adopting and amending in part the Recommended Order. In its Proposed Order the Commission increased the penalty to \$2,500.00.

On or about July 20, 2020, Respondent filed written exceptions to the Commission's Proposed Order. A virtual hearing on the exceptions was held October 21, 2020 (the "October 21st Hearing") before a panel consisting of Commissioners Demetria C. Scott, Anne Cooke, and Karen Baker (the "Panel"). Hope Sachs, Assistant Attorney General, appeared as the presenter of evidence on behalf of the Commission. Claimant did not appear. Respondent appeared without an attorney. She acknowledged her right to representation by counsel but waived that right and proceeded *pro se*. The proceedings were electronically recorded.

### **SUMMARY OF THE EVIDENCE**

On behalf of the Commission, three exhibits, as well as the OAH file containing the exhibits which were introduced at the ALJ Hearing, were admitted and entered into evidence:

- REC Ex. 1: June 23, 2020 letter with Proposed Order and Proposed Remand Decision
- REC Ex. 2: Respondent's exceptions
- REC Ex. 3: Hearing notice

No additional evidence was admitted.

### **FINDINGS OF FACT**

The Commission adopts the Findings of Fact recommended by the ALJ.

### **DISCUSSION**

At all times relevant to this matter, Respondent Andrea Tucker was a licensed real estate agent working for Exit Elite Realty ("Exit Elite"). FF 1-2.<sup>2</sup> Respondent met with Claimant in April 2016 and the two entered into a Buyer Agency Agreement. FF 3-5. In June of the same year Claimant advised Respondent she wished to delay and give herself some time to rebuild her credi. FF 5. Later that year Claimant advised she was ready to pursue purchasing a property and

---

<sup>2</sup> FF refers to the Findings of Fact in the ALJ's Proposed Remand Decision.

Respondent found a home within Claimant's budget that was listed by the owner of Exit Elite, Koy Banks. FF 6-11. The seller was Lancken Investments, LLC a company owned by Mr. Banks' father - Respondent was apparently unaware of the Banks family connection to Lancken. FF 11-12. In November 2016 Claimant put in an offer and it was accepted. FF 16-17. The property was sold as is. FF 18. The Claimant signed a dual agency agreement. FF 20.

The contract contained a home inspection addendum. FF. 19. The home inspection addendum included a provision that required the inspection take place within 21 days of the inspection or the Claimant would lose rights of rescission. FF 19. The Respondent scheduled the inspection outside of the 21 day window and did not request an extension. FF 21. The Claimant attended the inspection and although she did not participate in the complete walkthrough, she did ask Mr. Banks for a few things to which he apparently agreed. FF 22. The inspector emailed the report to the Respondent however the Claimant testified she was unable to view the pages and never took action via the inspector's portal to create a repair addendum. FF 23. At the final walk through on January 13, 2017 (the closing date) Claimant noted that some of the issues she'd addressed with Mr. Banks at the inspection had not been addressed. FF 24. After Claimant moved in she discovered numerous issues, from paint to no heat, with the property. FF 25-26. She contacted Mr. Banks, and eventually began working with a Ms. Taylor at Exit Elite. FF 25-30. She had a second inspection done, noting she did not trust the report from the original inspector and got two quotes, one from an unlicensed contractor and another from a contractor who never visited the property, for repairs. FF 31-33.

The ALJ found that Claimant failed to establish a claim under the Fund but determined that some of the regulatory charges were sustainable. Proposed Remand Decision at 32, 15. Specifically, the ALJ recommended Respondent be charged with violation of § 17-322 (b),

subsections (25), (32), and (33), § 17-532 (b)(1)(vi) of the Business Occupations and Professions Article (“BOP”), and Code of Maryland Regulations (“COMAR”) 09.11.02.02A. The ALJ recommended Respondent be ordered to pay a \$500.00 penalty as a result of the regulatory violations and her license be suspended for six (6) months. Proposed Remand Decision at 33.

After review of the Proposed Remand Decision the Commission agreed with the ALJ regarding the denial of the Fund claim, to proceed with regulatory charges, and the suspension, but increased the penalty from \$500.00 to \$2,500.00 and issued the Proposed Order.

Respondent took exception to the Commission’s Proposed Order, specifically the suspension and fine, and argued Claimant had not been truthful and that her broker’s liability was not weighed heavily enough in her favor. Assistant Attorney General Sachs argued on behalf of the Commission in support of the Proposed Order noting specifically that the Respondent admitted an extension of time would have been simple to obtain and that the ALJ found that admission to be a clear dereliction of duty and incompetence. Proposed Remand Decision at 23, 25-26.

First, regarding the veracity of the Claimant’s evidence and testimony, nothing was provided to the Commission to indicate that the testimony and evidence relied on by the ALJ was untruthful. In fact, the ALJ went into detail about the allegations supported by Claimant’s evidence and testimony and those which were not, dismissing several charges as a result. Proposed Remand Decision at 17-22. The ALJ’s reliance on the Claimant’s evidence and testimony was not in error. In addition, Respondent’s broker was also disciplined by the Commission and no evidence was supplied to the Commission that his role in this transaction was not taken properly into consideration when determining the sanction. Finally, as discussed in the Proposed Order, the Commission on rare occasion disagrees with an ALJ’s recommendation.

Despite the Respondent's disciplinary history, the events that led to the regulatory charges in this case are troubling. The Claimant's best interests were at best not taken seriously by the Respondent and at worst, subverted. There was little in the Proposed Remanded Decision to indicate Respondent has any remorse, nor did she indicate remorse at the hearing on her exceptions. The Commission therefore concludes that the recommended monetary sanction was insufficient and should be increased.

### CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, the Commission concludes as a matter of law that Respondent violated BOP § 17-322 (b) (25), (32), and (33); BOP § 17-532(b)(1)(vi), and COMAR 09.11.02.02A and as a result Respondent's license shall be suspended for six (6) months and Respondent shall pay a civil penalty in the amount of Two Thousand Five Hundred Dollars pursuant to BOP § 17-322 (c).

In addition, the Commission concludes as a matter of law that Claimant is not entitled to an award from the Fund. BOP §17-404.

### ORDER

The Exceptions of the Respondent, Andrea Tucker, having been considered, it is this 19<sup>th</sup> day of January, 2020 by the Maryland Real Estate Commission, hereby ORDERED:

1. That the Claimant's claim against the Fund is DENIED ;
2. That all real estate licenses held by the Respondent, Andrea Tucker, shall be suspended for six (6) months from the date all rights to appeal are exhausted;
3. That Respondent, Andrea Tucker, shall pay a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) within thirty (30) days from the date all rights to appeal are exhausted.

4. That the records, files, and documents of the Maryland Real Estate Commission reflect this decision.

**MARYLAND REAL ESTATE COMMISSION**  
**SIGNATURE ON FILE**

By: \_\_\_\_\_

**Note: A judicial review of this Final Order may be sought in the Circuit Court for the Maryland County in which the Appellant resides or has his/her principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.**

**SIGNATURE ON FILE**