

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE COMMISSION *

v.

**RALPH T. SIMMONS,
EXIT POWERHOUSE REALTY
4451 PARLIAMENT PLACE, SUITE T
LANHAM, MARYLAND 20706
LIC. NO. 05-514370**

Respondent

*** AGENCY NO.07-RE-131**

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CONSENT ORDER AND SETTLEMENT AGREEMENT

This matter comes before the Maryland Real Estate Commission ("Commission") as the result of a complaint filed by L. Steven Brown ("Complainant") against the Respondent Ralph T. Simmons, a real estate salesperson affiliated with Exit Powerhouse Realty, License Registration No. 05-514370 ("Respondent"). Based on the complaint and an investigation, the Commission issued a Statement of Charges and Order for Hearing dated September 30, 2009 and transmitted this matter to the Office of Administrative Hearings ("OAH"). The OAH scheduled a hearing for June 1, 2010 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 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 licensed by the Commission as a real estate salesperson with Exit Powerhouse Realty, license registration number 05-514370. 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. On May 4, 2006 the Complainant entered into a contract to sell his property, 161 Yuma, Louisburg, North Carolina, to Rachel Muldow (the "Yuma contract"). Under the Yuma contract, settlement was to occur on May 26, 2006.
3. The Yuma contract was contingent on Ms. Muldow settling on the sale of her property, 10339 Broom Lane, Lanham, Maryland, to Renita Springs on May 25, 2006 (the "Broom" contract").
4. The Respondent was the buyer's agent for Renita Springs.

5. Under the Broom contract, settlement was to occur on May 30, 2006. To accommodate Ms. Muldow's need to go to settlement under the Yuma contract by May 25, 2006, Ms. Springs and Ms. Muldow verbally agreed to change the settlement date under the Broom contract to May 25, 2006. The Respondent failed to put the agreement to change the settlement date from May 30, 2006 to May 25, 2006 into writing.

6. Ms. Springs was unable to go to settlement on May 25, 2006. Ms. Springs and Ms. Muldow verbally agreed to extend the settlement date for the Broom contract to June 9, 2006. The Respondent also failed to put the agreement to extend the settlement date from May 25, 2006 to June 9, 2006 into writing.

7. Ultimately, Ms. Springs did not go to settlement on the Broom contract and consequently Ms. Muldow was unable to go to settlement on the Yuma contract.

8. The Respondent admits that by failing to put the changes to the settlement dates into writing he has violated Md. Code Ann., Bus. & Occ. Art., §17-322(b)(33) ("BOP") and Code of Maryland Regulations ("COMAR") 09.11.02.01-H which 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:

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

COMAR 09.11.02.01-H

For the protection of all parties with whom he 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.

9. The Respondent consents to the entry of an Order that he has violated BOP 17-322(b)(33) and COMAR 09.11.02.01-H and he agrees to pay a civil penalty of \$500.00 in connection with the violation no later than June 30, 2010. The Respondent further agrees to complete a three hour contracts course in addition to, and not substituted for, the continuing education course requirements set forth in BOP §17-315 and COMAR 09.11.06, and to provide to the Commission a course completion certificate signed by the instructor no later than June 30, 2010.

10. The Respondent agrees that should he fail to pay the \$500.00 civil penalty and/or complete the three hour contracts course by June 30, 2009, all and any real estate licenses that he holds shall be automatically suspended and shall continue to be suspended until such time as he has paid the \$500.00 civil penalty and completed the three hour contracts course.

11. The Respondent, by entering into the Consent Order and Settlement Agreement, expressly waives the right to an administrative hearing on the charges, the making of Findings of Fact and Conclusions of Law by an administrative law judge or by the Commission, any and all further proceedings before the Commission to which the Respondent may be entitled in this matter and any rights to appeal from the Commission's Order.

12. The Respondent enters this Consent Order and Settlement Agreement knowingly and voluntarily.

13. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of this matter.

25th DAY OF May, 2010, **BASED ON THESE AGREEMENTS AND STIPULATIONS, IT IS THIS**
ESTATE COMMISSION.

ORDERED that the Respondent's conduct as described in this Settlement Agreement and Consent Order violated BOP §17-322(b)(33) and COMAR 09.11.02.01H; and it is further,

ORDERED that the Respondent be assessed a civil penalty of \$500.00 for the violations, which amount is payable to the Commission no later than June 30, 2010, and it is further

ORDERED that the Respondent complete a three hour contracts course in addition to, and not substituted for, the continuing education course requirements set forth in BOP §17-315 and COMAR 09.11.06, and provide to the Commission a course completion certificate signed by the instructor no later than June 30, 2010; and it is further

ORDERED that should the Respondent fail to pay the \$500.00 civil penalty and/or complete the three hour contracts course by June 30, 2009, all and any real estate licenses that he holds shall be automatically suspended and shall continue to be suspended until such time as he has paid the \$500.00 civil penalty and completed the three hour contracts course; and it is further

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

MARYLAND REAL ESTATE COMMISSION:

By: Katherine F. Connelly
Katherine F. Connelly, Executive Director

AGREED:

Ralph T. Simmons
Ralph T. Simmons, Respondent