

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE
COMMISSION**

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CASE NO. 2011-RE-243

V.

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**PAUL W. DIGGS
REGIONAL REALTY, INC.
2943 EMMORTON ROAD
ABINGDON, MARYLAND 21009
LIC. NO. 03-576067**

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AND

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**CLAIM OF JONATHAN HOA TRAN
AGAINST THE MARYLAND REAL
ESTATE COMMISSION GUARANTY
FUND**

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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 Jonathan Hoa Tran ("Complainant") against Paul W. Diggs, the Respondent Real Estate Broker, license registration number 03-567067. Based on the complaint and an investigation the Commission issued a Statement of Charges and Order for Hearing dated August 29, 2011 and transmitted this matter to the Office of Administrative Hearings for a hearing on the regulatory charges and Guaranty Fund claim which was scheduled for February 3, 2012 at the OAH in Bel Air, Maryland. Prior to the hearing the parties 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 and to resolve the Complainant's Guaranty Fund claim.

The parties agree and stipulate as follows:

1. The Respondent is currently licensed by the Commission as an associate real estate broker affiliated with Regional Realty, Inc., license registration number 03-567067. 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 March 16, 2009 the Respondent and the Complainant entered into a property management agreement whereby the Respondent agreed to manage the

Complainant's property located at 2803 Beckon Drive, Edgewood, Maryland. The agreement provided that in exchange for compensation in the amount of the first months rent plus 7% of each subsequent months rent, the Respondent would locate and screen prospective tenants, lease the property, collect a security deposit and maintain it in an escrow account, collect the monthly rent, make or cause to be made ordinary repairs and replacements necessary to preserve the property condition, provide to Complainant a monthly statement of receipts and disbursements, disburse to the Complainant his share of amounts due, and provide other services related to the management of the property.

3. At the time of the agreement the Respondent was the owner of High Places Management Services, the entity through which the Complainant hired the Respondent to manage his property. The Respondent was also then licensed as the real estate broker of record for Powerhouse Realty Group, L.L.C.

4. In June 2009, the Respondent leased the property and allowed the tenants to take occupancy of the property. Under the lease agreement the tenants were to pay a security deposit of \$1300.00 along with the first months rent. The tenants did pay the first months rent but paid only \$630 of the required security deposit.

5. The tenants paid the monthly rent on time through September 2009. However, the tenants did not pay the rent due for October 2009 until November 2009, and did not pay the rent due for November 2009, December 2009 and January 2010 totaling \$3900.00 until February 2010.

6. When the \$3900 was paid by the tenants in February 2010 the Respondent deducted his 7% monthly fee and the balance of the security deposit (\$670) before depositing the balance in the Complainant's checking account. The Respondent failed to assess and collect late fees from the tenants.

7. In March 2010 the Respondent closed his office but continued to manage the property through June 16, 2010. In June 2010 he stopped communicating with the Complainant and failed to respond to the Complainant's emails and telephone calls. The Respondent also failed to assist the Complainant in filing to evict the tenants for their failure to pay rent.

8. After the property management agreement was terminated, the Respondent failed to forward the security deposit to the Complainant until February 2011; the check mailed by the Respondent to the Complainant was returned by the bank for insufficient funds.

9. The Respondent admits that by his acts and omissions described above he has violated Business and Occupations Article, Annotated Code of Maryland ("BOP") §§17-322(b)(33) and COMAR 09.11.02.02A 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 09.11.02.02A

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 the statutory obligations towards the other parties to the transaction.

10. The Respondent consents to the entry of an Order that he has violated BOP §17-322(b)(33) and COMAR 09.11.02.02A and he agrees to pay a civil penalty in the amount of \$5000.00 on or before April 30, 2012. The Respondent agrees that should he fail to pay the civil penalty on or before April 30, 2012 that his license shall be automatically suspended and shall continue to be suspended until such time as he pays the civil penalty in full. The Respondent 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.

February 29, 2012 / K O H T T

11. The Respondent further agrees to pay and the Complainant agrees to accept the sum of \$1927.00 to be paid to the Complainant by cashiers or certified check on or before ~~April 30, 2012~~ in full and final resolution of the Complainant's claim against the Guaranty Fund. Upon receipt of the payment from the Respondent the Complainant agrees that his claim against the Guaranty Fund shall be dismissed. The Respondent agrees that should he fail to make the \$1927.00 payment to the Complainant on or before ~~April 30, 2012~~ his license shall be automatically suspended and shall continued to be suspended until such time as he makes the payment. The Respondent further agrees that the Complainant shall have the right to request that this matter be transmitted to OAH for a hearing before an administrative law judge on the claim against the Guaranty Fund.

February 29, 2012 / D O H T T

TH **BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS**
DAY OF February, 2012 BY THE MARYLAND REAL
ESTATE COMMISSION:

ORDERED that the Respondent has violated BOP §17-322(b)(33) and COMAR 09.11.02.02A; and it is further

ORDERED that the Respondent be assessed a civil penalty of \$5000.00, which amount is payable to the Commission on or before April 30, 2012; and it is further

ORDERED that should the Respondent fail to pay the \$5000.00 civil penalty on or before April 30, 2012 his license registration number 03-567067 and any other real estate licenses he holds shall be automatically suspended and shall continue to be suspended until such time as the civil penalty is paid in full; and it is further

ORDERED that the Respondent shall pay to the Complainant by cashier's or certified check the sum of \$1927.00 on or before ~~April 30, 2012~~; and it is further

February 29 2012 HTT

ORDERED that upon the Complainant's receipt of the \$1927.00 from the Respondent his Guaranty Fund claim shall be dismissed; and it is further

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ORDERED that should the Respondent fail to make the payment to the Complainant on or before ~~April 30, 2012~~ his license number 03-567067 and any other real estate licenses he holds shall be automatically suspended and shall continue to be suspended until such time as said amount is paid in full and that the Complainant shall have the right to request that this matter be transmitted to the Office of Administrative Hearings for a hearing on his claim against the Guaranty Fund; and it is further

ORDERED that the Commission's records and publications reflect terms of this Consent Order and Settlement Agreement including the violation and the civil penalty.

MARYLAND REAL ESTATE COMMISSION:

By: SIGNATURE ON FILE
KATHERINE F. CONNELLY
EXECUTIVE DIRECTOR

AGREED:

2/3/2012
Date

2/3/2012
Date

SIGNATURE ON FILE
Jonathan/Hoa Tran, Complainant

SIGNATURE ON FILE
Paul W. Diggs, Respondent