

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE COMMISSION \*

v. \*

LESLIE E. HEDGEPATH \*  
Respondent \*

CASE NO. 2006-RE-287  
2006-RE-288

And \*

OAH NO. DLR-REC-24-08-07337  
DLR-REC-24-08-07330

CLAIM OF DEBORAH E. PENAMON \*  
AGAINST THE MARYLAND \*  
REAL ESTATE GUARANTY FUND \*

\* \* \* \* \*

PROPOSED ORDER

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated October 31, 2008 having been received, read and considered, it is, by the Maryland Real Estate Commission, this 10<sup>th</sup> day of December 2008,

**ORDERED,**

A. That the Findings of Fact in the recommended decision be, and hereby are, **AFFIRMED;**

B. That the Conclusions of Law in the recommended decision be, and hereby are, **AFFIRMED;**

C. That the Recommended Order be, and hereby is, **AMENDED** as follows:

**ORDERED** that the Respondent Leslie E. Hedgepath violated Md. Bus. Occ. and Prof. Art. § 17-322(b)(3), (14)(ii), (25), (31), and (33); § 17-502(a); and COMAR 09.11.02.01H and 09.11.02.02A;

**ORDERED** that all real estate licenses held by the Respondent Leslie E. Hedgepath be suspended for a period of six months;

**ORDERED** that the Respondent Leslie E. Hedgepath be assessed a civil penalty in the amount of \$2,000.00 with regard to his conduct in the Whitmore transaction (OAH Case No. DLR-REC-24-08-07337/REC Case No. 06-RE-287) and \$2,000 with regard to his conduct in the Brighton transaction (OAH Case no. DLLR-REC-24-08-07330/REC Case No. 06-RE-288), for a total penalty of \$4,000.00, which shall be paid to the Real Estate Commission within thirty (30) days of the date of this Proposed Order;

**ORDERED** that the Claimant Deborah E. Penamon be awarded \$341.17 from the Maryland Real Estate Guaranty Fund with regard to the Whitmore transaction (OAH Case No. DLR-REC-24-08-07337/REC Case No. 06-RE-287), and \$8,698.62 from the Maryland Real Estate Guaranty Fund with regard to the Brighton transaction (OAH Case No. DLR-REC-24-08-07330/REC Case No. 06-RE-288);

**ORDERED** that the Respondent Leslie E. Hedgepath is ineligible for a real estate license until he reimburses the Guaranty Fund for all monies disbursed under this Proposed Order plus annual interest of 12%;

**ORDERED** that all real estate licenses held by the Respondent Leslie E. Hedgepath are suspended until the fines assessed against him in this Proposed Order are paid in full, and that this suspension is in addition to the six-month disciplinary suspension;

**ORDERED** that the records and publications of the Maryland Real Estate Commission reflect this decision.

D. Pursuant to §10-220 of the State Government Article, the Commission finds that the Recommended Decision of the Administrative Law Judge had to be modified to provide that the Respondent Leslie E. Hedgepath is ineligible to hold a real estate license until he has paid the civil penalty in full. To hold a real estate license, an individual must have complied with all provisions of an order of the Commission. This includes the payment of all civil penalties that have been imposed.

E. Pursuant to Code of Maryland Regulations (COMAR) 09.01.03.08 those parties adversely affected by this Proposed Order shall have 20 days from the postmark date of the Order to file exceptions and to request to present arguments on the proposed decision before this Commission. The exceptions should be sent to the Executive Director, Maryland Real Estate Commission, 3rd Floor, 500 North Calvert Street, Baltimore, MD 21202.

*Katherine J. Connelly* Exec. Dir.  
Maryland Real Estate Commission  
*for Anne S. Cooke, Commissioner*



Complaint, regarding property at 700 Whitmore Avenue, Baltimore, Maryland (Whitmore),<sup>1</sup> the Claimant sought reimbursement of \$10,000.00 from the Maryland Real Estate Commission Guaranty Fund (Fund) for actual losses allegedly suffered as a result of conduct by Leslie Hedgepath (Respondent), a licensed real estate agent. The Claimant alleged that the Respondent's conduct in the Whitmore transaction had constituted unfair and deceptive practices, negligent misrepresentation, and that he had withheld from her a copy of the real estate contract executed by the parties. In the second Complaint, regarding property at 3116 Brighton Street, Baltimore, Maryland (Brighton),<sup>2</sup> the Claimant sought reimbursement of \$25,000.00 for actual losses allegedly suffered as the result of unfair and deceptive practices by the Respondent.

On January 4, 2008, the REC issued charges against the Respondent with regard to his conduct in both the Whitmore transaction and the Brighton transaction. The REC alleged that in each case the Respondent had violated Maryland Business Occupations and Professions Article sections 17-322(b)(3), (14)(ii), (25), (31), (33), and 17-502(a) (2004 & Supp. 2008), as well as Code of Maryland Regulations (COMAR) 09.11.02.01H and 09.11.02.02A.

On August 4, 2008, I convened a consolidated hearing on the Complaints and the REC's charges against the Respondent at the Office of Administrative Hearings (OAH) in Hunt Valley, Maryland. I continued the hearing to August 5, 2008 and the record closed that day. Md. Code Ann., Bus. Occ. & Prof. §§ 17-324(a), 17-408(a), and 17-409 (2004). Peter Martin, Assistant Attorney General, represented the REC. The Claimant was present and represented herself. The Respondent was present and represented himself. Eric B. London, Assistant Attorney General, represented the Fund.

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<sup>1</sup> OAH Case No. DLR-REC-24-08-07337 (REC Case No. 2006-RE-287).

<sup>2</sup> OAH Case No. DLR-REC-24-08-07330 (REC Case No. 2006-RE-288).

The contested case provisions of the Administrative Procedure Act, the procedural regulations of the Department of Labor, Licensing and Regulation, and the OAH Rules of Procedure govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2004 & Supp. 2008); COMAR 09.01.03, 09.11.03, and 28.02.01.

### ISSUES

1. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, directly, or through another person, willfully make a misrepresentation or knowingly make a false promise, in violation of Maryland Business Occupations and Professions Article section 17-322(b)(3)?
2. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, fail to furnish promptly to the Claimant a copy of the contract of sale, in violation of Maryland Business Occupations and Professions Article section 17-322(b)(14)(ii)?
3. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, engage in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constituted dishonest, fraudulent, or improper dealings, in violation of Maryland Business Occupations and Professions Article section 17-322(b)(25)?
4. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, fail to promptly submit trust money to his real estate broker, in violation of Maryland Business Occupations and Professions Article sections 17-502(a) and 17-322(b)(31)?
5. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, fail to see to it that financial obligations and commitments regarding these real estate transactions were

in writing and expressed the exact agreement of the parties, in violation of COMAR 09.11.02.01H and Maryland Business Occupations and Professions Article section 17-322(b)(33)?

6. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, fail to see to it that written copies of all financial obligations and commitments regarding these real estate transactions were in the hands of all parties involved within a reasonable time after the agreements were executed, in violation of COMAR 09.11.02.01H and Maryland Business Occupations and Professions Article section 17-322(b)(33)?

7. Did the Respondent, with regard to the Whitmore and/or Brighton transactions, fail to protect and promote the interests of his client, the Claimant, in violation of COMAR 09.11.02.02A and Maryland Business Occupations and Professions Article section 17-322(b)(33)?

8. Did the Claimant sustain an actual loss resulting from the conduct of the Respondent which constituted theft, embezzlement, forgery, false pretenses, fraud, or misrepresentation under Maryland Bus. & Occ. Prof. Article section 17-404?

### **SUMMARY OF THE EVIDENCE**

#### **Exhibits**

I admitted sixteen exhibits on behalf of the REC and two exhibits on behalf of the Claimant. Neither the Fund nor the Respondent submitted any exhibits. A detailed Exhibit List is appended to this Recommended Decision.

#### **Testimony**

The REC presented the following witnesses:

- the Claimant
- Mary Lee, Associate Broker, Bowie office of Long & Foster Realty
- Shawn Taylor, Real Estate Agent, ReMax First Advantage

- Nnaemeka Obiegbu-chima, Broker, Chima Group
- James Stoakley, REC Investigator

The Claimant testified on her own behalf and did not present any additional witnesses.

The Respondent testified on his own behalf and did not present any additional witnesses.

The Fund did not present any witnesses.

### **FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. At all times relevant to these transactions, the Respondent was a licensed real estate agent employed by the Bowie office of Long & Foster Realty. He held REC license number 05-532163.
2. In 2005, the Claimant hired the Respondent as a seller's agent to assist the Claimant in selling a property.
3. After completion of this sale, the Claimant and the Respondent discussed the Claimant's goal of investing the proceeds from the sale into some rental properties. The Claimant informed the Respondent that she would only be interested in purchasing properties which required a minimal amount of repairs.
4. The Claimant and the Respondent agreed that the Respondent would assist the Claimant in locating and purchasing properties suitable for the Claimant to market as rental homes.
5. The Claimant retained the Respondent's services as a buyer's agent for this purpose.
6. After a search pursuant to this agreement, the Respondent located an investment property at 2816 Brighton Street in Baltimore, Maryland. The Claimant gave him a check in the amount of \$1,000.00 as earnest money for a contract on this property.

7. The negotiations on the property at 2816 Brighton Street did not result in a contract, nevertheless, the Respondent retained the Claimant's earnest money check in the event that the Claimant and he located another suitable property.

8. The Respondent did not turn this check over to his broker so that it could be deposited into the broker's escrow account.

### **Brighton Street Property**

9. The Respondent next located a property at 3116 Brighton Street, Baltimore, Maryland (the Brighton property). The Claimant and he agreed that this property would suit the Claimant's purposes.

10. The owners of the Brighton property, Bruce and Azella Dumans, purchased it in May 2005 for \$46,000.00. The Dumans offered the property for sale in November 2005 for \$73,900.00 – a nearly \$30,000.00 increase in six months.

11. On November 19, 2005, the Claimant, with the assistance of the Respondent, signed a written contract (Brighton contract) to buy this property from Bruce and Azella Dumans at the price requested.

12. The Respondent lost the first earnest money check the Claimant had given him for the 2816 Brighton Street property and could not apply it to the current Brighton contract. The Claimant issued another \$1,000.00 check to the Respondent as earnest money on the property.

13. The Respondent failed to turn this check over to his broker so that it could be deposited into the broker's escrow account.

14. The Claimant's lender, First Community Mortgage, questioned whether the price requested by the Dumans for the Brighton property accurately reflected its value, in light of the sharp increase in price over what the Dumans had originally paid six months earlier.

15. The Dumans explained that they had put approximately \$20,000.00 worth of repairs into the property. They provided receipts which purportedly verified this statement.

16. Neither the Claimant nor the Respondent reviewed these receipts prior to signing the Brighton contract.

17. The Claimant had the right to terminate the Brighton contract if the sellers failed to complete necessary repairs uncovered during a home inspection, but, the contract dictated that she retained this right *only* if the Claimant did the following within ten days of the date the contract was executed (November 19, 2005): (1) obtain a home inspection at her own cost; (2) submit a complete copy of the home inspection report to the sellers; (3) submit to the sellers a written list of what conditions were deemed unsatisfactory and what corrective action was requested on those conditions.

18. Under the terms of the Brighton contract, if the Claimant failed to complete these actions within ten days she was deemed to have accepted the property's conditions and she waived her right to terminate the contract.

19. The Respondent did not provide the Claimant with a copy of the contract which explained this contingency.

20. During the ten-day period following execution of the Brighton contract, the Dumans' real estate agency, ReMax American Dream, attempted to contact the Respondent multiple times to make arrangements for a home inspection. The Respondent never called back.

21. Personnel at ReMax American Dream then called the Respondent's broker to complain that they had been unable to reach the Respondent.

22. On December 3, 2005, four days after expiration of the home inspection contingency clause, a home inspector inspected the property and discovered the following problems:

a. The basement stairwell surface drain was clogged with extensive debris and the basement sink was not functional; both areas were deemed to be “deficient” by the inspector.

b. The ceiling, walls, floors, and doors in the basement all showed signs of water penetration and damage and were deemed to be “marginal” by the inspector.

c. The water lines had low water pressure, the plumbing backed up when the upstairs toilet was flushed and the basement toilet was not functional – all conditions the inspector deemed to be either marginal or deficient.

d. The inspector was unable to locate the main shut-off valve in the basement to even determine whether the pressure was low because the water was turned off or because there was a problem with the system.

e. The gas was turned off to the property and thus the inspector was unable to certify the sufficiency of the gas system.

23. On December 29, 2005, one month after expiration of the home inspection contingency clause, the Claimant and the Respondent drafted an addendum to the Brighton contract based upon the home inspector’s report (the Addendum). In the Addendum, the Claimant requested that the sellers do the following work:

a. Remove debris from basement stairwell drain;

b. Provide access to main water shut-off valve;

c. Have water pressure checked by a licensed plumber;

d. Replace a missing drain tub on the water heater;

e. Repair the water system so that water would not back up into the tub drain when the toilet was flushed;

f. Correct a damaged electrical outlet in one of the bedrooms.

24. The Claimant signed the Addendum and the Respondent placed a cross by the list of requested repairs so that each party could place his/her initials by the change, indicating their approval. The Claimant did not place her initials in the cross.

25. The Claimant asked the Respondent for a copy of the Addendum before he sent it to Shawn Taylor, the Dumans' agent at ReMax American Dream; the Claimant also repeated her request for a copy of the contract. The Respondent failed to give her a copy of either document.

26. The Respondent forwarded the Addendum to Ms. Taylor on December 29, 2005.

27. Ms. Taylor was surprised by the very late arrival of the Addendum. She called the Respondent to discuss it but again failed to reach him.

28. The Dumans did not agree with the Claimant's proposal on the Addendum that they make repairs to the property. They drew a line on the Addendum through her proposal and added a handwritten counteroffer which stated that the Dumans would instead provide the Claimant at closing with \$650.00 toward the cost of repairs. A cross was drawn beside this counteroffer and the Dumans placed their initials within it to indicate their authorization for it. At the time the Dumans initialed their counteroffer on the Addendum, the Claimant's signature was still on the bottom of the Addendum but her initials, verifying acceptance of withdrawal of her proposal, or acceptance of the Dumans' counteroffer, were not.

29. The Addendum was faxed back to the Respondent.

30. The Respondent received the Addendum but did not review it.

31. After receiving the Addendum, the Respondent informed the Claimant that the Dumans had agreed to make the requested repairs prior to the settlement.

32. On or about January 19, 2006, the Claimant and the Respondent did a pre-settlement walk-through. None of the items on the Addendum had been completed and the gas and water systems were still not turned on/operational.

33. The Claimant expressed concern to the Respondent that none of the items on the Addendum had been repaired. The Respondent assured the Claimant that the Dumans had agreed to complete them before settlement was over the following day.

34. The Respondent further assured the Claimant that the Dumans would fix any problem with the water or gas systems if latent defects were discovered when these systems were turned on in the house.

35. Long & Foster real estate agents are trained to prepare a walk-through addendum to verify the parties' agreement to repair (or not repair) items discovered during a pre-settlement walk-through.

36. If utilities are not operational during a pre-settlement walk-through, Long & Foster real estate agents are trained to either delay settlement until the utilities are turned on or arrange for an Addendum to the contract which provides for the sellers to establish an escrow account to cover the cost of repairs to any latent defects discovered when the utilities are turned on.

37. The Respondent did not obtain any written agreement from the Dumans or from Ms. Taylor that verified that the Dumans would make the repairs requested by the Claimant on the Addendum, that the Dumans would fix any problems arising from latent defects with the water or gas systems, or that the Dumans would make repairs of unsatisfactory conditions discovered during the pre-settlement walk-through.

38. The Respondent failed to arrange for the establishment of an escrow account to cover the cost of repairs to any latent defects to the water or gas systems at the Brighton property.

39. The Claimant and the Dumans settled on the Brighton property on January 20, 2006.

40. On January 22, 2006, the Claimant met a representative from Baltimore Public Works at the Brighton property. She was informed that the property had severe water problems unrelated to the water being turned off.

41. On January 23, 2006, the Claimant hired T & D Plumbing Company to make an estimate on work required at the Brighton property. The Claimant agreed with the estimate and authorized T & D Plumbing Company to begin work.

42. The Respondent met the Claimant at her home on January 26, 2006. The Respondent assured the Claimant that the Dumans had spent a great deal of money making repairs to the Brighton property; however, the receipts the Dumans had provided as justification for the price increase revealed money paid for cars, repairs to a lawn mower, and to a garage that did not exist on the Brighton property.

43. During their January 26, 2006 meeting, the Claimant repeated her request for a copy of the contract. The Respondent still failed to give her a copy.

44. The Claimant repeated her request for a copy of the contract, including all addendums, on February 14, 2006; the Respondent still failed to give her a copy.

45. The Claimant then sought copies of these documents from her lender, First Community Mortgage.

46. On February 15, 2006, before she received any documents from her lender, the Claimant contacted the Respondent's broker, Mary Lee of Bowie Long & Foster Realty. She informed Ms. Lee that the Dumans had not made the repairs she had requested and that the Respondent had never given her a copy of the Brighton contract/addenda.

47. Ms. Lee was not familiar with the Brighton transaction but agreed to look into her concerns and respond as quickly as possible.

48. Ms. Lee discovered that the Respondent had never set up a file for this sale and that he had not turned in the Claimant's \$1,000.00 earnest money check so that it could be deposited into the broker's escrow account.

49. Long & Foster policy requires that agents set up a file on a property no later than the day a real estate contract is executed.

50. Long & Foster policy requires agents to promptly turn in earnest money checks so that the money can be secured in the agency's escrow account.

51. Shortly after speaking to Ms. Lee, the Claimant's lender gave her copies of the Brighton contract documents, including the Addendum.

52. The copy of the Addendum contained the Claimant's initials beside both the original list of proposed repairs (now drawn through), indicating that she had agreed to withdraw this request, and beside the Dumans' offer to provide \$650.00 toward repairs, indicating that she had agreed to accept this offer instead.

53. The Claimant did not place her initials beside either clause, nor did the Respondent ever inform her of an agreement to withdraw her list of proposed repairs and agree instead to \$650.00 in cash, nor did he ever ask her to agree to the Dumans' response, nor did he ever ask for her permission to place her initials on this document.

54. The water problems at the Brighton property were extensive and required that the lawn be dug up and new pipes installed to properly connect the house to the City of Baltimore water system. Nearly all the water pipes in the house had to be ripped out and reinstalled, a new boiler

was installed, and then repairs had to be made to all the walls and ceilings destroyed during removal of the pipes.

55. The extensive repairs on the Brighton property were beyond the scope of the Claimant's plan for purchasing investment rental property.

56. If the Claimant had known that the Brighton property required such extensive repairs, she would not have purchased it.

57. The Claimant expended a total of \$9,500.00 in plumbing costs on the Brighton property, including \$3,600.00 for the installation of a new boiler.

58. The Claimant paid \$75.00 to remove the debris from the exterior basement drain.

59. The Claimant paid an electrician \$200.00 to repair the damaged outlet listed on the Addendum.

60. The Claimant paid a carpenter \$1,925.00 to repair the walls damaged by the plumbing repairs and paid an additional \$598.62 in supplies<sup>3</sup> for this work.

#### **Whitmore Avenue Property**

61. While the Brighton transaction was ongoing, the Respondent located another property for the Claimant: 700 Whitmore Avenue, Baltimore, Maryland (Whitmore property).

62. The Respondent and the Claimant agreed that the Whitmore property met the Claimant's investment goals.

63. On December 28, 2005, the Claimant, with the assistance of the Respondent, entered into a contract to purchase the Whitmore property from Angel Grate.

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<sup>3</sup> The Claimant submitted several pages of cancelled checks in her Exhibit 1 that she asserted were evidence of the cost of repairs to the Brighton and Whitmore properties. During my deliberations, I saw that seventeen of these checks were dated and cashed during the spring of 2005 – approximately six to nine months prior to the Claimant's January 2006 purchase of the Whitmore and Brighton properties. Accordingly, I did not find these disbursements to be related to the instant case and did not consider them when determining the Claimant's actual loss in this case.

64. The Claimant then asked the Respondent to provide her with a copy of the Whitmore contract, but the Respondent failed to do so.

65. The Claimant provided the Respondent with a check for \$1,000.00 as earnest money for the Whitmore contract.

66. The Respondent failed to turn the Claimant's check over to his broker so that it could be placed in the broker's escrow account.

67. Under the terms of the Whitmore contract, the property was being sold "as is." Although the Whitmore contract provided the Claimant with the option to have a home inspection, the contract terms provided that the home inspection would be for "informational purposes only."

68. The Claimant asked the Respondent to draft an addendum to the Whitmore contract to have Ms. Grate repair two damaged doors and door frames in the property prior to settlement.

69. The Respondent did not explain to the Claimant that since she was buying the home "as is," Ms. Grate was unlikely to agree to such an addendum, but instead agreed to draft it and present it to Ms. Grate's agent, Pamela Wilks.

70. The Respondent orally conveyed the Claimant's request about the doors to Ms. Wilks, but did not draft a written addendum to reflect this request or submit any other form of written request about the doors to Ms. Wilks or to Ms. Grate.

71. Instead, the Respondent simply asked that Ms. Grate leave extra doors inside the house.

72. The Claimant asked the Respondent if Ms. Grate was going to fix the doors and he assured the Claimant that she would.

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*See* Cl. Ex. 1, Check Nos. 6536 through 6598 for the period of March 8, 2005 through May 28, 2005, totaling \$1,819.72.

73. The Claimant settled on the Whitmore property on January 31, 2006. Prior to settlement, the Claimant again asked the Respondent about the status of the doors and the Respondent assured her that Ms. Grate would repair the doors before settlement was completed.

74. The Respondent did not tell the Claimant that he had never submitted or obtained a written agreement from Ms. Grate or Ms. Wilks to repair the doors.

75. On January 31, 2006, the Respondent returned the Claimant's \$1,000.00 earnest money check for the Whitmore property to her.

76. On January 31, 2006, the Respondent asked the Claimant to provide him with a check for \$250.00 as an "administrative fee." The Claimant complied by giving him a check made out to the Respondent.

77. Long & Foster Realty requires its clients to pay an "administrative fee," but such a fee is to be included on the settlement sheet and provided to the brokerage; Long & Foster strictly prohibits its agents from obtaining an "administrative fee" made out in their individual names.

78. The Respondent never turned this "administrative fee" check over to his broker.

79. On February 4, 2006, the Claimant and the Respondent went to the Whitmore property and discovered that although Ms. Grate had left doors in the home, the doors were not hung, and were the wrong size to fit in the door frames.

80. After seeing the unhung and mismatched doors, the Claimant again asked the Respondent to provide her with a copy of the contract and the addendum she had asked him to draft regarding the doors so that she could take those documents to mediation to try to force Ms. Grate to make the repairs. The Respondent failed to provide her with either document.

81. The Claimant asked again on February 14, 2006, but the Respondent still failed to provide her with these documents.

82. On February 15, 2006, the Claimant obtained a copy of the Whitmore contract from her lender, First Community Mortgage, along with the Brighton contract documents. The Whitmore property documents did not include an addendum for the doors.

83. The Respondent failed to create a file with his broker on the Whitmore contract.

84. The Claimant paid a total of \$341.17 to repair the doors, door locks, and door frames at the Whitmore property.

85. Prior to these incidents with the Claimant, the Respondent had been considered to be a careful, knowledgeable, and well-respected real estate agent.

86. The Respondent was very familiar with Long & Foster Realty's policies about writing addenda, setting up files, and securing earnest money checks.

87. The Respondent trained other real estate agents on Long & Foster Realty's policies and on compliance with the code of ethics for real estate agents, due diligence, and general good practices.

88. Because of his experience and skill in these areas, Long & Foster had designated the Respondent to be a mentor to many other real estate agents.

89. Because of these incidents, Long & Foster Realty terminated the Respondent's employment on March 6, 2006.

90. During the period in question, 2005 to 2006, the real estate market in Baltimore was extremely busy, and, as a result, the Respondent was handling multiple offers on contracts every day.

91. During this period, the Respondent was also responsible for mentoring several other agents as well as for handling work assigned to other agents who were ill.

92. During this period, the Respondent was diagnosed with Attention Deficit Disorder and was adjusting to medication to treat this condition.

93. During this period, the Respondent was also under severe stress because he and his wife were separating.

94. The Respondent is currently employed as a real estate agent with Exit First Realty.

## DISCUSSION

### Regulatory Charges

The evidence amply demonstrates that the years of 2005 and 2006 were a chaotic, extremely hectic and very stressful period in the Respondent's life. The real estate market was exploding, speculation on rental properties was rampant and buyers had to submit their offers very quickly to lay claim to desired properties. Real estate agents, particularly experienced agents such as the Respondent, spent most of their waking hours juggling multiple deals for multiple clients, and in the Respondent's case, were sometimes asked to take on the work of other agents who could not keep up the pace. All these factors were in play in the Respondent's life during this period; in addition, his health took a turn for the worse and his marriage was dissolving. Despite this pressure, the Respondent's legal obligations toward each client remained unchanged, regardless of the number of deals for which he was responsible.

Most of the necessary facts in this case are not in dispute. The Respondent was repeatedly asked by his client, the Claimant, to provide her with copies of the Brighton and Whitmore contracts and associated addenda. The Claimant had a right to copies of those documents promptly after they were created and executed, and, pursuant to section 17-322(b)(14)(ii) of the Maryland Business Occupations and Professions Article, the Respondent was obligated to provide them. He does not deny that he failed to do so and thus he does not dispute that he violated section 17-322(b)(14)(ii).

The Respondent had a legal obligation to ensure that all financial obligations and commitments regarding these real estate transactions were in writing, expressed the exact agreement of the parties, and that copies were provided to all parties within a reasonable time after they were executed, pursuant to COMAR 09.11.02.01H. There is no dispute that the Respondent failed to meet this obligation – both by failing to provide the Claimant with copies of the contracts and addenda, and by failing to secure written agreements with the sellers to make repairs to the property, as directed by his client. Thus, the REC has established without dispute that the Respondent violated COMAR 09.11.02.01H, and by doing so, also violated section 17-322(b)(33) of the Maryland Business Occupations and Professions Article.

When he agreed to be a buyer's agent for the Claimant, the Respondent was obligated, pursuant to COMAR 09.11.02.02A, to protect and promote her interests – despite other draws on his time from other clients. The evidence establishes that the Respondent grossly failed to meet this responsibility. He failed to be responsive to both his client and to other real estate agents' requests for information. He failed to ensure that a home inspection was completed and that a list of corrective actions was submitted to the Dumans in the Brighton transaction within the requisite time period to protect his client's ability to withdraw from the contract. He failed to seek an extension of this deadline to protect his client when the appropriate actions were not taken within the ten-day time period. He failed to obtain a written agreement after pre-settlement walk-throughs in both the Brighton and Whitmore transactions. He failed to arrange for an escrow account to cover latent defects at the Brighton property when a home inspection could not be completed due to the absence of working water and gas systems in the home. He failed to investigate the legitimacy of the Dumans' claim that they had made repairs to the Brighton property prior to placing it on the market. He failed to draft an addendum in the Whitmore transaction or to explain to his client that the seller,

Ms. Grate, was unlikely to agree to such an addendum since she was selling the property "as is." Most seriously, the Respondent admits that he failed to review the December 29, 2005 Addendum to the Brighton contract when it was returned from Ms. Taylor, the Dumans' agent. As a result, the Respondent did not see that someone had placed his client's initials on an agreement that was severely adverse to her interests and to which she had not agreed. This oversight caused his client, the Claimant, to lose a substantial amount of money in the Brighton transaction, a smaller amount of money in the Whitmore transaction, and resulted in the Claimant's purchase of a property that did not meet her needs.

One could argue that the Claimant was responsible for knowing the terms of both contracts and for protecting herself. This argument fades almost completely in light of the fact that the Respondent never gave the Claimant copies of the contracts. The Respondent grossly failed to promote and protect his client's interests in violation of COMAR 09.11.02.02A, and by doing so also violated section 17-322(b)(33) of the Maryland Business Occupations and Professions Article.

The Respondent was responsible for accurately reporting information to his client and, under section 17-322(b)(3) of the Maryland Business Occupations and Professions Article, therefore was prohibited from making any willful misrepresentations or knowingly false promises. The preponderance of the evidence certainly establishes that the Respondent promised the Claimant in both transactions that the sellers would complete the repairs she had requested. The Respondent did not deny that he had made such assurances. In both cases, the Respondent was aware that he did not have written agreements with the sellers to do all that the Claimant had asked. Knowing that he had no enforceable agreement with the sellers, yet at the same time assuring the Claimant that her requests would be honored and repairs completed before settlement was over is nothing short of both misrepresentation and knowingly false promises and a direct violation of section 17-322(b)(3).

The Respondent was also obligated to promptly submit trust money to his real estate broker, pursuant to Maryland Business Occupations and Professions Article section 17-502(a). He admits that he failed to do so. Instead, he lost at least one earnest money check and improperly handled the other two. Such an action was not only unprofessional, and a threat to his supervising broker's license, but was a clear violation of sections 17-502(a) and 17-322(b)(31) of the Maryland Business Occupations and Professions Article.

The Respondent's former supervisor, Ms. Lee, and the Respondent himself, credibly testified that the actions he displayed in this case were not consistent with his normal behavior. He had been a well-respected agent and so knowledgeable that he was asked to train and mentor other agents. Exemplary past history does not excuse his deficient behavior in the Brighton and Whitmore transactions. The Respondent caused significant harm to the Claimant. His actions with regard to the Brighton and Whitmore transactions were clearly improper and incompetent, in violation of section 17-322(b)(25) of the Maryland Business Occupations and Professions Article.

Accordingly, I find that the REC has submitted a preponderance of the evidence to support each of the charges it brought against the Respondent.

### Penalties

The REC requests that I recommend a civil penalty of \$2,000.00 in each case and a six-month suspension of the Respondent's real estate license. Maryland Business Occupations and Professions Article section 17-322(c) sets out the following guidelines for the imposition of civil penalties:

- (c) (1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, the Commission may impose a penalty not exceeding \$5,000 for each violation.

(2) To determine the amount of the penalty imposed, the Commission shall consider:

- (i) the seriousness of the violation;
- (ii) the harm caused by the violation;
- (iii) the good faith of the licensee; and
- (iv) any history of previous violations by the licensee.

I conclude that the Respondent's violations in this case were serious. His failure to pay attention to what was happening in these transactions, act in a timely manner, and to vigorously protect and promote his client's interests struck at the heart of the trust relationship he was expected to cultivate and protect. These violations, particularly with regard to the Brighton transaction, caused significant harm to the Claimant in that she purchased an inappropriate property for her needs and she was duped into having to pay thousands of dollars to repair what was a completely inoperative water system. While the Respondent has a reputation of being honest and certainly appeared so at this hearing, during the period involved he showed a lack of good faith. Despite being repeatedly asked to perform his duties, he failed to do so. By the time his broker, Ms. Lee, became aware of the extent of his failures, nothing could be done to ameliorate the harm caused to the Claimant. To his credit, the Respondent has no prior record of any violations of Maryland Real Estate Brokers Act. Considering these facts and the Respondent's prior good record as a real estate agent, I find the REC's request that I recommend a medium-level sanction of \$2,000.00 per transaction to be appropriate and I will so recommend.

Maryland Business Occupations and Professions Article section 17-322 does not provide detailed guidance to assist in the determination of whether to suspend a real estate agent's license. Although section 17-322(d) sets out guidelines for suspensions of a license, it only applies when a licensee has been convicted of a felony or misdemeanor. As this has not occurred in this case, I will look to the conditions set out in section 17-322(c) to assist in deciding whether to suspend the

Respondent's license. And, for the reasons discussed above, I again consider the REC's recommendation to be appropriate. The REC requests that I make the suspension consecutive to any suspension of the Respondent's license for failure to pay the above-listed civil penalties. I decline to make such a recommendation. Considering the absence of any past history of violations and the Respondent's prior good record, I find that six months is a sufficiently lengthy suspension and that the loss of employment as a real estate agent for this period of time is correlative to the harm caused by the Respondent to the Claimant.

#### Guaranty Fund

The Claimant bears an independent burden to establish that she sustained an actual loss resulting from conduct of the Respondent which constituted theft, embezzlement, forgery, false pretenses, fraud, or misrepresentation under section 17-404 of the Maryland Business Occupations and Professions Article. The Claimant requested reimbursement from the Guaranty Fund in the amounts of \$25,000.00 with regard to the Brighton transaction and \$10,000.00 with regard to the Whitmore transaction. In the hearing, the Claimant withdrew a number of the documents she had initially submitted as evidence of actual loss. Based upon my review of the remaining documents, while I find that the Claimant met her burden under section 17-404, I find that the amount of the reimbursement is substantially less than what she claimed.

In explaining the basis for her claim, the Claimant sought reimbursement for the cost of repairs but also sought reimbursement for lost rent on each property during the period that the renovations she ordered were completed. She also included a request for damages for emotional distress and health-related concerns that she believed arose from the stress caused by the Respondent's misconduct. The Claimant did not present any expert medical testimony to establish that her admittedly serious health concerns arose from the stress of these transactions and thus, I

must respectfully decline to award any reimbursement on this basis. There are no provisions in the real estate law governing this hearing which would permit me to award damages for emotional distress and thus I must also decline to award any compensation or reimbursement on this basis. The Claimant also failed to present any reliable evidence to support reimbursement for lost rent. She did not establish that she could have rented them and, if so, what price the market would have borne during this period. For this reason, I must agree with the Fund's argument that damages for lost rent are too speculative to be considered as "actual loss." However, the Claimant has established that she suffered an actual loss with regard to the expenses of renovating these properties.

In the Whitmore transaction, the Claimant established that she suffered an actual loss due to misrepresentation by the Respondent that Ms. Grate would make repairs on two doors. In support of her claim, the Respondent submitted an invoice from the R. Smith, PQRS firm in the amount of \$4,018.95 for a variety of repairs. *See* Cl. Ex. A. During the hearing, she withdrew her claim for \$75.00 on line 14 of this invoice and clarified that only lines 2, 4, 5, 6, 7, 8, and 9 pertained to the Whitmore property. However, the Claimant failed to produce documentation that she had paid for many of the items listed on the R. Smith, PQRS firm. The only documentation the Claimant submitted which verified payments for repairs at the Whitmore property were two cancelled checks found at Cl. Ex. A, page 2, and one cancelled check at Cl. Ex. 1 at page 32, for a total of \$341.17. I therefore find that the Claimant has established an actual loss of \$341.17 arising from the Respondent's misrepresentation to her in the Whitmore transaction.

In the Brighton transaction, the Claimant established that she suffered an actual loss due to misrepresentations by the Respondent that the water system would be fixed by the time settlement was completed, that the sellers would fix any latent defects once the water was turned on, and that

the Dumans would take care of all the other repairs listed on the Addendum by the time settlement was completed. As discussed above, these assurances by the Respondent misrepresented the facts and certainly caused the Claimant to suffer significant financial losses. Had she known the correct state of affairs, the Claimant was highly unlikely to have proceeded with settlement on this property.

The Claimant submitted a large number of cancelled checks and other invoices to support her claim for actual loss with regard to this transaction. I note however, that many of the cancelled checks she submitted predated the purchase of both homes and thus I cannot consider them as evidence of any financial loss arising from the Brighton or Whitmore transaction.<sup>4</sup>

Of the remaining documents relating to the Brighton transaction found in Cl. Ex. 1 and in Cl. Ex. A at 1, I rely most heavily on the evidence of payment found in cancelled checks and check card transactions, as supported by invoices. After reviewing these, I conclude that the Claimant has established the following costs arising from misrepresentation: the removal of debris from the outside drain (\$75.00); repairing an electrical outlet (\$200.00); all repairs associated with restoring the water system, including direct plumbing bills (\$9,500.00) and indirect costs arising from the carpentry work necessary to repair walls that had to be destroyed to replace the plumbing system (\$1,925.00); and, finally, supplies for all this work (\$598.62).

The Fund urges me to deny an award for replacement of the boiler system on the grounds that the new boiler added value to the Brighton home. I agree with the Fund's assertion that the cost of purchasing and installing a new boiler was offset by the additional value this item added to the home and will deduct this cost (\$3,600.00) from my calculation of the Claimant's actual loss. This renders the Claimant's actual loss directly related to plumbing issues on the Brighton home to be

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<sup>4</sup> See n.3 earlier in this Recommended Decision.

\$5,900.00. When combined with the debris removal, electrical, carpentry work and supply costs, I find the Claimant's actual loss on the Brighton transaction to be \$8,698.62.<sup>5</sup>

### CONCLUSIONS OF LAW

Based upon the Findings of Fact and Discussion above, I make the following conclusions as a matter of law:

- (1) The Respondent made knowing misrepresentations and false promises to the Claimant in both the Whitmore and Brighton transactions in violation of section 17-322(b)(3) of the Maryland Business Occupations and Professions Article section;
- (2) The Respondent failed to furnish promptly to the Claimant copies of the Whitmore and Brighton contracts of sale and necessary addenda, in violation of section 17-322(b)(14) of the Maryland Business Occupations and Professions Article;
- (3) The Respondent engaged in conduct in the Whitmore and Brighton transactions which demonstrated incompetency and constituted improper dealings, in violation of section 17-322(b)(25) of the Maryland Business Occupations and Professions Article;
- (4) The Respondent, in both the Whitmore and Brighton transactions, failed to promptly submit trust money to his real estate broker, in violation of Maryland Business Occupations and Professions Article sections 17-502(a) and 17-322(b)(31);
- (5) The Respondent, in both the Whitmore and Brighton transactions, failed to see to it that financial obligations and commitments regarding these real estate transactions were in writing and expressed the exact agreement of the parties, in violation of COMAR 09.11.02.01H and Maryland Business Occupations and Professions Article section 17-

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<sup>5</sup> I considered the following cancelled checks when calculating this actual loss: #1046, 1048, 1047, 6738, 1050, 1055, 1056, 1057, 6748, 6766, 6767, 6773, 1111, 1109, 1113, and 1114. I also considered the February 10, 2006 check card transaction detail. See Cl. Ex. 1 at 2; see generally Cl. Ex. A.

322(b)(33);

- (6) The Respondent failed to see to it that written copies of all financial obligations and commitments regarding both the Whitmore and Brighton real estate transactions were in the hands of the Claimant within a reasonable time after the agreements were executed, in violation of COMAR 09.11.02.01H and Maryland Business Occupations and Professions Article section 17-322(b)(33);
- (7) The Respondent failed to protect and promote the interests of his client, the Claimant, in both the Whitmore and Brighton transactions, in violation of COMAR 09.11.02.02A and Maryland Business Occupations and Professions Article section 17-322(b)(33);
- (8) The Claimant sustained an actual loss resulting from misrepresentations made by the Respondent in the Whitmore transaction in an amount of \$341.17. Maryland Bus. & Occ. Prof. Article section 17-404;
- (9) The Claimant sustained an actual loss resulting from misrepresentations made by the Respondent in the Brighton transaction in an amount of \$8,698.62. Maryland Bus. & Occ. Prof. Article section 17-404.

### **RECOMMENDED ORDER**

**I RECOMMEND** that the Maryland Real Estate Commission:

**ORDER** that the Respondent violated sections 17-322(b)(3), (14)(ii), (25), (31), (33) and 17-502(a) of the Maryland Business Occupations and Professions Article, COMAR 09.11.02.02A, and COMAR 09.11.02.01H; and

**ORDER** that the Respondent be fined \$2,000.00 with regard to his conduct in the Whitmore transaction (OAH Case No. DLR-REC-24-08-07337/ REC Case No. 06-RE-287) and \$2,000.00 with regard to his conduct in the Brighton transaction (OAH Case No. DLR-REC-24-08-

07330/REC Case No. 06-RE-288), pursuant to section 17-322(c) of the Maryland Business Occupations and Professions Article and that the Respondent pay the amount of this fine to the Maryland Real Estate Commission within thirty days of the adoption of this Recommended Order by the Commission; and

**ORDER** that the Claimant be awarded \$341.17 from the Maryland Real Estate Guaranty Fund with regard to the Whitmore transaction (OAH Case No. DLR-REC-24-08-07337/ REC Case No. 06-RE-287); and

**ORDER** that the Claimant be awarded \$8,698.62 from the Maryland Real Estate Guaranty Fund with regard to the Brighton transaction (OAH Case No. DLR-REC-24-08-07330/REC Case No. 06-RE-288); and

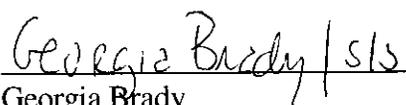
**ORDER** that the Respondent be ineligible for a Maryland Real Estate Commission license until the Respondent reimburses the Guaranty Fund for all monies disbursed under this Order plus annual interest of at least ten percent (10%) as set by the Commission; Md. Code Ann., Bus. Occ. & Prof. § 17-412 (2004); and

**ORDER** that the Respondent's Maryland Real Estate Commission license be suspended for a period of six months, pursuant to section 17-322(b) of the Maryland Business Occupations and Professions Article, with that suspension to be served concurrently with any suspension imposed under section 17-412 of the Maryland Business Occupations and Professions Article; and,

**ORDER** that the records and publications of the Maryland Real Estate Commission reflect this decision.

October 31, 2008  
Date Decision Mailed

GB/ab  
# 100749

  
Georgia Brady  
Administrative Law Judge

THE MARYLAND REAL ESTATE	* BEFORE GEORGIA BRADY,
COMMISSION	* AN ADMINISTRATIVE LAW JUDGE
v.	* OF THE MARYLAND OFFICE
LESLIE E. HEDGEPATH,	* OF ADMINISTRATIVE HEARINGS
RESPONDENT	* OAH NO.: DLR-REC-24-08-07337
AND THE CLAIM OF	* REC NO.: 2006-RE-287
DEBORAH E. PENAMON,	* OAH NO.: DLR-REC-24-08-07330
CLAIMANT	* REC NO.: 2006-RE-288
AGAINST THE MARYLAND REAL	*
ESTATE COMMISSION GUARANTY	*
FUND FOR ALLEGED ACTS OR	*
OMISSIONS OF	*
LESLIE E. HEDGEPATH	*
* * * * *	* * * * *

**FILE EXHIBIT LIST**

These two cases pertain to two transactions involving the Respondent and the Claimant. The exhibits were marked to identify which transaction each applies to.

OAH Case No. DLR-REC-24-08-07337 (REC Case No. 2006-RE-287) pertains to a transaction between the parties relating to property identified as 700 Whitmore Avenue, Baltimore, Maryland. All exhibits submitted by the parties relating directly to this property are identified alphabetically (*e.g.*, Exhibits A, B, C, etc.) and are marked with both the exhibit letter and a case designation of #07337-W.

OAH Case No. DLR-REC-24-08-07330 (REC Case No. 2006-RE-288) pertains to a transaction between the parties relating to a property identified as 3116 Brighton Street, Baltimore, Maryland. All exhibits submitted by the parties relating directly to this property are identified numerically (*e.g.*, Exhibits 1, 2, 3, etc.) and a case designation of #07330-B.

## **Real Estate Commission Exhibits**

### *Whitmore Transaction Exhibits*

- REC Ex. A - OAH Notice of Hearing, dated April 18, 2008, with attached Statement of Charges and Order for Hearing, dated January 4, 2008
- REC Ex. B - Affidavit of Katherine F. Connelly, dated July 10, 2008, with attached licensing history of Respondent (License No. 05-532163)
- REC Ex. C - Report of Investigation, prepared by James Stoakley, REC Investigator covering the period of March 2, 2006 – October 23, 2007), with the following attachments, identified by page number:
- 4 – 7 - REC Complaint and Guaranty Fund Claim, received by REC March 2, 2006, signed by Claimant on February 27, 2006, relating to claims against Respondent
  - 8 – 9 - REC Complaint and Guaranty Fund Claim, received by REC March 2, 2006, signed by Claimant on February 27, 2006, relating to claims against real estate agent Pam Wilks
  - 10 – 20 - Residential Contract of Sale, signed by Claimant as buyer on December 29, 2005, and by seller Angel Grate on December 30, 2005
  - 21 – 23 - General Addendum to Contract of Sale, signed by Claimant on December 29, 2005, and by Angel Grate on December 30, 2005
  - 24 - Cash/Conventional Financing Appraisal Contingency Addendum, signed by Claimant on December 29, 2005, and by Angel Grate on December 30, 2005
  - 25 – 28 - Property Inspections Addendum, signed by Claimant on December 29, 2005, and by Angel Grate on December 30, 2005
  - 29 – 31 - Notice to Purchaser of Purchaser's Rights Under Maryland's Single Family Residential Property Condition Disclosure Law, signed by Claimant on December 29, 2005, and by Angel Grate on December 30, 2005
  - 32 - Handwritten Addendum, "Special Condition," signed by Claimant on January 5, 2006, and by Angel Grate on December 30, 2005,

witnessed by Respondent (signature undated) (regarding  
“informational” home inspection and that property to be sold “as is”)

- 33 - Special Condition (1): Addendum 1, signed by Claimant (undated) and by Angel Grate on January 25, 2006 (regarding change in contract price and settlement date)
  - 34 - Disclosure Statement, signed by Claimant on January 5, 2006 and by Angel Grate on November 12, 2005
  - 35 - Buyer Home Warranty Disclosure, signed by Claimant on December 29, 2005
  - 36 - Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, signed by Claimant on January 5, 2006, by Angel Grate on November 12, 2005, by Pam Wilks on November 12, 2005, December 30, 2005
  - 37 – 38 - Letter from Mary A. Lee, Manager, Bowie Long & Foster to REC, dated April 7, 2006
  - 39 - Letter from Jack M. Queen, President/Broker of Record, Prestige Partners, to REC, dated March 6, 2006
  - 40 – 43 - Letter from Respondent to REC, dated March 18, 2006 (regarding Brighton transaction)
- REC Ex. D - Settlement Statement, dated January 31, 2006
- REC Ex. E - Letter from Claimant to Mary Lee, Manager, Bowie Long and Foster Real Estate, dated February 21, 2006
- REC Ex. F - Affidavit of Katherine F. Connelly, dated July 29, 2008, with the following attachment:
- Letter to REC from Don Adams, Manager, Owings Mills Office, Long & Foster Real Estate, Inc., rec'd by REC on March 22, 2006, to which is attached:
    - Letter to REC from Pamela Wilks, dated March 16, 2006

Brighton Transaction Exhibits

- REC Ex. 1 - OAH Notice of Hearing, dated April 18, 2008, with attached Statement of Charges and Order for Hearing, dated January 4, 2008
- REC Ex. 2 - Affidavit of Katherine F. Connelly, dated July 10, 2008, with attached licensing history of Respondent (License No. 05-532163)
- REC Ex. C - Report of Investigation, prepared by James Stoakley, REC Investigator (covering the period of March 2, 2006 – October 23, 2007), with the following attachments, identified by page number:
- 4 – 8 - REC Complaint and Guaranty Fund Claim, received by REC March 2, 2006, signed by Claimant on February 27, 2006, relating to claims against Nnaemeka Obiegbu-Chima
  - 9 – 18 - Residential Contract of Sale, signed by Claimant as buyer on November 19, 2005, and by sellers Bruce and Azella Dumans on November 28, 2005
  - 19 – 21 - General Addendum to Contract of Sale, signed by Claimant on November 19, 2005, and by Bruce and Azella Dumans (undated)
  - 22 - Cash/Conventional Financing Appraisal Contingency Addendum, signed by Claimant on November 19, 2005, and by Bruce and Azella Dumans on November 28, 2005
  - 23 – 26 - Property Inspections Addendum, signed by Claimant on November 19, 2005, and by Bruce and Azella Dumans on November 28, 2005
  - 27 – 28 - Contract of Sale Addendum # 4, Notice to Purchaser of Purchaser's Rights Under Maryland's Property Disclosure Law, signed by Claimant on November 19, 2005, and witnessed by Respondent (undated)
  - 29 - Handwritten Addendum, signed by Claimant on December 29, 2005, and by Bruce and Azella Dumans (signatures undated) (regarding change in closing date from December 20, 2005 to January 11, 2006)
  - 30 - Addendum to Sales Contract, signed by Claimant on December 29, 2005 and by Bruce and Azella Dumans (signatures undated) (regarding home repairs/contribution to closing costs)

- 31 - Disclosure Statement regarding lead-based paint and lead-based paint hazards, signed by Claimant and Respondent on January 20, 2006, by Bruce and Azella Dumans on November 2, 2005, and by listing agent Shawn Taylor (signature undated)
- 32 - Addendum extending settlement to on or before January 20, 2006, signed by Claimant on January 20, 2006 and by Bruce and Azella Dumans (signatures undated)
- 33 – 36 - Maryland Residential Property Disclosure and Disclaimer Statement, signed by Claimant on January 20, 2006 and by Bruce and Azella Dumans on November 2, 2005
- 37 - 38 - Understanding Whom Real Estate Agents Represent, unsigned and undated
- 39 - Commission, Fee-Sharing and Bonus Disclosure, signed by Claimant on November 19, 2005 and by Bruce and Azella Dumans (undated signatures)
- 40 - Buyer Home Warranty Disclosure, signed by Claimant on November 19, 2005
- 41 – 42 Affiliated Business Arrangement Disclosure Statement, signed by Claimant on November 19, 2005
- 43 – 44 - Letter from Mary A. Lee, Manager, Bowie Long & Foster to REC, dated April 7, 2006
- 45 - Letter from Jack M. Queen, President/Broker of Record, Prestige Partners, to REC, dated March 6, 2006
- 46 – 49 - Letter from Respondent to REC, dated March 18, 2006 (regarding Brighton transaction) (duplicate of REC Ex. C, pages 40 – 43)
- REC Ex. 4 - Claimant's Check # 1037 to Long and Foster, dated November 19, 2005, for \$1,000.00
- REC Ex. 5 - Home Inspection Report, dated December 3, 2005
- REC Ex. 6 - Addendum to Sales Contract listing proposed home repairs, signed by Claimant on December 29, 2005

- REC Ex. 7 - Revised copy of REC Ex. 6, containing undated signatures by Bruce and Azella Dumans and initials on second clause reading "DP," "R" and "AD," received with contract provided by Respondent on February 14, 2006
- REC Ex. 8 - Revised copy of REC Ex. 6, containing undated signatures by Bruce and Azella Dumans and initials on second clause reading only "R" and "AD," received with contract provided by First Community Mortgage on February 15, 2006
- REC Ex. 9 - Claimant's letter to REC, dated January 4, 2006, amending Complaint Form in REC Case 2006-REC-288 to include Respondent as charged real estate agent
- REC Ex. 10 - Letter to REC from Nnaemeka Chima, dated March 23, 2007

### **Claimant Exhibits**

#### Whitmore Transaction Exhibits

- Cl. Ex. A - Packet of documents relating to Claimant's expenses for repairs, with the following attachments, identified by page number:
- 1 - Itemized Bill from R. Smith, PQRS
  - 2 - Cancelled checks, identified as follows:
    - Check # 6772 to Robert Smith, dated March 17, 2006, for \$70.00, regarding labor on door
    - Check # 6764 to Home Depot, dated March 14, 2006, for \$71.17, regarding locks on side door
    - Check # 6767 to Lowes, dated March 16, 2006,<sup>6</sup> for \$63.23, **regarding Brighton transaction**
  - 3 - Photograph of exterior door
  - 4 - 5 - Photographs of doors

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<sup>6</sup> Claimant's check # 6767 contains a date on its face which reads "3/16/07." However, since the reverse side of this check shows that it was offered to the bank for deposit on "3/16/06," I conclude that the date on the face of the check is a typographical error and that its accurate date is March 16, 2006, rather than March 16, 2007.

Brighton Transaction Exhibits

Cl. Ex. 1 - Packet of documents relating to Claimant's expenses for repairs, with the following attachments, identified by page number:

- 1 - T & D Plumbing & Heating Co., Inc. proposal # 3325, dated February 2, 2006, signed by Claimant on February 3, 2006
- 2 - Claimant's cancelled check # 1057 to T & D Plumbing, dated February 3, 2006 for \$1,200.00 (down-payment to proposal # 3325)
- 3 - T & D Plumbing & Heating Co., Inc. proposal # 4003, dated January 31, 2006, signed by Claimant on January 31, 2006
- 4 - Claimant's cancelled check # 6738 to T & D Plumbing, dated January 30, 2006 for \$1,200.00 (down-payment to proposal # 4003)
- 5 - T & D Plumbing & Heating Co., Inc. proposal # 4075, dated June 9, 2006, signed by Claimant on June 9, 2006
- 6 - T & D Plumbing & Heating Co., Inc. invoice # 4549, dated January 23, 2006
- 7 - Claimant's cancelled check # 1046 to T & D Plumbing, dated January 23, 2006 for \$175.00 (paying invoice # 4549)
- 8 - 9 - T & D Plumbing & Heating Co., Inc. Boiler Installation Contract, dated January 26, 2006, signed by Claimant and T & D representative January 26, 2006, totaling \$3,600.00
- 10 - Claimant's cancelled check # 1048 to T & D Plumbing, dated January 26, 2006 for \$1,800.00 (for "boiler system")
- 11 - Claimant's cancelled check # 1050 to T & D Plumbing, dated January 30, 2006 for \$1,300.00 (for "final payment for furnace")
- 12 - Claimant's cancelled check # 1055 to T & D Plumbing, dated February 1, 2006 for \$500.00 (for boiler system)
- 13 - T & D Plumbing & Heating Co., Inc. invoice # 7741, dated June 5 (no year), regarding proposal # 2198
- 14 - Claimant's cancelled check # 1114 to T & D Plumbing, dated June 13, 2006 for \$50.00 (for invoice # 7741)

- 15 - Claimant's cancelled check # 1109 to T & D Plumbing, dated June 12, 2006 for \$1,275.00 (for invoice # 7741)
- 16 - T & D Plumbing & Heating Co., Inc. proposal # 2198, dated June 5, 2006, signed by Claimant on June 6, 2006
- 17 - Claimant's cancelled check # 1111 to T & D Plumbing, dated June 6, 2006 for \$725.00 (for proposal # 2198)
- 18 - RSmith, PQRS Invoice, dated June 12, 2006
- 19 - Claimant's cancelled check # 1113 to Robert Smith, dated June 12, 2006, for \$1,200.00 (June 12, 2006 invoice – repairs to walls)
- 20 - Claimant's check card transaction detail, dated February 10, 2006, to T & D Plumbing & Heating for \$1,000.00
- 21 - Claimant's cancelled check # 1056 to T & D Plumbing, dated February 1, 2006, for \$1,000.00
- 22 - Duplicate of page 20
- 23 - Web Banking list of pending transactions reflecting check card transaction to T & D Plumbing, dated February 3 (no year), for \$2,400.00
- 24 - Claimant's cancelled check # 1047 to Handy Matters, dated January 26, 2006, for \$75.00 for debris removal
- 25 - American Tub & Tile Work Order – *withdrawn by Claimant*
- 26 - 33 - Claimant's cancelled checks:
  - Check # 6770 to Robert Walker, carpenter, dated March 16, 2006, for \$150.00 (replacing studs)
  - Check # 6536 to William S. Petty, electrician, dated March 8, 2005, for \$75.00
  - Check # 6762 to William Walker, dated March 11, 2006, for \$350.00 – *withdrawn by Claimant*
  - Check # 6771 to William Walker, dated March 16, 2006, for \$350.00 - *withdrawn by Claimant*
  - Check # 6738 to T & D Plumbing, dated January 30, 2006, for \$1,200.00
  - Check # 6775 to Robert Walker, dated April 4, 2006, for \$450.00 (carpentry on columns on porch)-- *withdrawn by Claimant*

- Check # 6760 to William Walker, dated April 4, 2006, for \$240.00 (toilet components) -- *withdrawn by Claimant*
- Check # 6558 to William Walker, dated April 26, 2005, for \$85.00 -- *withdrawn by Claimant*
- Check # 6557 to Home Depot, dated April 25, 2005, for \$55.00 (basement drywall, lumber and related materials)
- Check # 6554 to Home Depot, dated April 20, 2005, for \$222.62 (lumber)
- Check # 6553 to Home Depot, dated April 17, 2005, for \$324.22 (lumber and ceiling)
- Check # 6590 to William S. Petty (electrician), dated May 17, 2005, for \$450.00 (ceiling electrical work and building "electrical box")
- Check # 6570 to William J. Petty, dated May 5, 2005, for \$50.00 (lumber)
- Check # 6598 to Lowe's, dated May 28, 2005, for \$36.66 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6593 to Lowe's, dated May 21, 2005, for \$115.16 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6577 to Home Depot, dated May 9, 2005, for \$327.86 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6576 to Home Depot, dated May 8, 2005, for \$16.49 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6575 to Lowe's, dated May 8, 2005, for \$13.11 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6573 to Lowe's, dated May 7, 2005, for \$24.40 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6574 to Home Depot, dated May 7, 2005, for \$15.00 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6569 to Home Depot, dated May 3, 2005, for \$16.40 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6567 to Home Depot, dated May 1, 2005, for \$15.70 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6566 to Lowe's, dated May 1, 2005, for \$41.20 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6572 to Home Depot, dated May 6, 2005, for \$21.40 (lumber, sheetrock, nails, screws, mud, taping, etc.)
- Check # 6748 to Robert Smith (electrician), dated February 10, 2006, for \$200.00
- Check # 6761 to Robert Smith (electrician), dated March 10, 2006, for \$200.00 – **for Whitmore property**
- Check # 6774 to American Tub & Tile, dated March 25, 2006, for \$500.00 – *withdrawn by Claimant*
- Check # 6766 to Home Depot, dated March 15, 2006, for \$250.80
- Check # 6773 to Lowe's, dated March 18, 2006, for \$284.59

34 - 37 - Fax coversheet (without attachment) sent from J. Stoakley to Claimant on October 22, 2007 and fax coversheet dated October 23, 2007 from Claimant to J. Stoakley with the following attachments:

- Copy of REC Ex. 6, with handwritten notation "This was faxed to ReMax Amer Dream" and "A sample of my signature is as follows Dp or dp"
- Copy of REC Ex. 7, with handwritten notation "These signatures are not mine. This is a sample of my signature Dp or dp" and "This is what came back from Re Max"

38 - Claimant's cancelled check # 1054 to Respondent, dated January 31, 2006, for \$250.00 for "Long & Fost Adm. Fee."