

MARYLAND REAL ESTATE COMMISSION \*

BEFORE THE

\* MARYLAND REAL

v.

\* ESTATE COMMISSION

\* COMPLAINT NO.: 2007-RE-742

EZRA HERCENBERG,

\*

Respondent

\*

\* \* \* \* \*

CONSENT ORDER

*Ezra Hercenberg* (Kfc)

This matter comes before the Maryland Real Estate Commission ("Commission") based on a complaint filed by Cassandra Hawkins against Stanley Zerden. Based on that complaint and an investigation, the Commission determined that charges against Ezra Hercenberg ("Respondent") were appropriate and that a hearing on those charges should be held. This matter was scheduled for a hearing at the Office of Administrative Hearings on June 7 – June 8, 2010, but the Commission withdrew the regulatory charges to allow for this resolution to occur. The Commission and the Respondent consent to the entry of this Order as final resolution of Complaint No. 07-RE-742 (as to the regulatory charges against Respondent Hercenberg).

IT IS STIPULATED BY THAT PARTIES that:

1. The Respondent was first licensed as a real estate salesperson (License No. 05-588737) on August 9, 2004.
2. He placed his license on inactive status with the Commission on January 27, 2005.

3. The Respondent renewed his license on August 14, 2006, and it remained on inactive status until the license expired on August 9, 2008.
4. The Respondent did not renew his salesperson's license after it expired.
5. While his salesperson's license was on inactive status, the Respondent was not permitted to provide real estate brokerage services.
6. The Respondent was engaged by the seller/owner of 414 East 21<sup>st</sup> Street, Baltimore, Maryland to assist in renovating the home prior to the sale of that home.
7. When the seller/owner decided to sell the property, the Respondent referred her to Stanley Zerden, a licensed real estate salesperson affiliated with Simone Real Estate, the brokerage with which Mr. Hercenberg had previously been affiliated.
9. Mr. Hercenberg stayed involved in the transaction on behalf of the seller/owner and hired a contractor to make the repairs.
10. William Robinson, the contractor hired by the Respondent, was not licensed by the Maryland Home Improvement Commission to engage in home improvement work.
11. Mr. Hercenberg should have known that the contractor was required to be licensed and had a duty to confirm that he held the appropriate license to do the work.
12. The Respondent intends to apply to renew his salesperson's license.
13. The Respondent enters his Consent Order freely, knowingly, and voluntarily, and having had the opportunity to seek the advice of counsel.
14. By entering into this Consent Order, the Respondent expressly waives the right to any hearing or further proceeding to which he may be entitled in this matter and any rights to appeal from this Consent Order.

15. The Respondent agrees to abide by the Maryland Real Estate Brokers Act, Maryland Annotated Code, Business Occupations and Professions Article, §17-101 *et seq.*, and regulations of the Commission in future real estate transactions.

BASED ON THESE STIPULATIONS, IT IS, THIS 28<sup>th</sup> day of July, 2010, BY THE MARYLAND REAL ESTATE COMMISSION,

ORDERED that Respondent Ezra Hercenberg has violated Maryland Annotated Code, Business Occupations and Professions Article, §17-322(b)(25), and it is further

ORDERED that the Respondent is assessed a total civil penalty of \$1,500.00, which amount is payable to the Commission within thirty days of the date this Order is signed by the Commission, and it is further

ORDERED that the Respondent complete a three-hour course in real estate agency (over and above any statutory and regulatory requirements concerning continuing education) and provide written verification of successful completion to the Commission within 90 days of the date this Order is signed by the Commission, and it is further

ORDERED that, if payment of the civil penalty is not made within that 30-day period and/or if the Respondent fails to provide written verification of the successful completion of the course in real estate agency within the 90-day period, the Respondent shall not be eligible to apply for a license from the Commission until such payment is made and/or verification is received, and it is further

ORDERED that, if the Respondent renews his license prior to the date on which this Consent Order is signed by the Commission, and if payment of the civil penalty is not made within the 30-day period referenced above and/or if the Respondent fails to provide written verification of the successful completion of the course in real estate agency within the 90-day period referenced above,

the Respondent's license shall be automatically suspended until such payment is made and/or verification is received, and it is further

ORDERED that the Commission's records and publications shall reflect the terms of this

Consent Order.

RESPONDENT'S SIGNATURE  
APPEARS ON ORIGINAL ORDER

(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

COMMISSIONER *Kelly Ford*  
MARYLAND REAL ESTATE COMMISSION

Date

*6/28/10*

MARYLAND REAL ESTATE COMMISSION *	BEFORE THE
	* MARYLAND REAL
v.	* ESTATE COMMISSION
	* COMPLAINT NO.: 2007-RE-742
STANLEY ZERDEN,	*
	*
Respondent	*

\* \* \* \* \*

CONSENT ORDER

This matter comes before the Maryland Real Estate Commission (“Commission”) based on a complaint filed by Cassandra Hawkins against Stanley Zerden (“Respondent”). Based on that complaint, the Commission determined that charges against the Respondent were appropriate and that a hearing on those charges should be held. This matter was scheduled for a hearing at the Office of Administrative Hearings on June 7 – June 8, 2010, but the Commission withdrew the regulatory charges against the Respondent to allow for this resolution to occur. The Commission and the Respondent consent to the entry of this Order as final resolution of Complaint No. 07-RE-742 (as to the regulatory charges against Respondent Zerden).

IT IS STIPULATED BY THAT PARTIES that:

1. The Respondent was licensed as a real estate salesperson (License No. 05-605133) at the time of the events at issue and was affiliated with Simone Real Estate.
2. On or about September 10, 2006, Cassandra Hawkins, buyer, signed a Residential Contract of Sale for the property known as 414 East 21<sup>st</sup> Street, located in Baltimore, Maryland.

3. The Respondent was the listing agent for that property.
4. The Respondent identified himself as the intra-company agent with broker as dual agent on the contract of sale which he drafted for the buyer for the purchase of the property.
5. No other agent was named on the contract.
6. The Respondent did not specify whether he was the agent who represented the buyer or the seller.
7. The Respondent's broker, Vito Simone, subsequently requested that the Respondent revise the contract of sale to reflect that the Respondent was the agent representing the seller in the transaction and that the buyer was being represented by the broker (Simone).
8. A new contract was signed on or about October 6, 2006, identifying the Respondent as the seller's agent.
9. The Respondent did not ensure that the property disclosure/disclaimer form, required by law to be represented to the buyer, was completed and signed by the seller before presenting it to the buyer in the transaction.
10. The Respondent enters this Consent Order freely, knowingly, and voluntarily, and with the advice of counsel.
11. By entering into this Consent Order, the Respondent expressly waives the right to any hearing or further proceeding to which he may be entitled in this matter and any rights to appeal from this Consent Order.
12. The Respondent agrees to abide by the Maryland Real Estate Brokers Act, Maryland Annotated Code, Business Occupations and Professions Article, §17-101 *et seq.*, and regulations of the Commission in future real estate transactions.

BASED ON THESE STIPULATIONS, IT IS, THIS 19<sup>th</sup> day of June, 2010, BY THE MARYLAND REAL ESTATE COMMISSION,

ORDERED that Respondent has violated Maryland Annotated Code, Business Occupations and Professions Article, §§17-530(b)(1) and (c) and Code of Maryland Regulations 09.11.02.02I, and it is further

ORDERED that the Respondent is assessed a total civil penalty of \$2,500.00, which amount is payable to the Commission within thirty days of the date this Order is signed by the Commission, and it is further

ORDERED that the Respondent complete a three-hour course in real estate agency (over and above any statutory and regulatory requirements concerning continuing education) and provide written verification of successful completion to the Commission within 90 days of the date this Order is signed by the Commission, and it is further

ORDERED that, if payment of the civil penalty is not made within that 30-day period and/or if the Respondent fails to provide written verification of the successful completion of the course in real estate agency within the 90-day period, the Respondent's real estate license shall be automatically suspended until that payment is made and/or verification is received, and it is further

ORDERED that the Commission's records and publications shall reflect the terms of this

Consent Order.

RESPONDENT'S SIGNATURE  
APPEARS ON ORIGINAL ORDER

(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

*for the Chair*  
MARYLAND REAL ESTATE COMMISSION

Date 6/29/10

MARYLAND REAL ESTATE COMMISSION \* BEFORE THE  
\* MARYLAND REAL  
v. \* ESTATE COMMISSION  
\* COMPLAINT NO.: 2007-RE-742  
\*  
VITO SIMONE, \*  
\* Respondent \*  
\* \* \* \* \*

CONSENT ORDER

This matter comes before the Maryland Real Estate Commission ("Commission") based on a complaint filed by Cassandra Hawkins against Vito Simone ("Respondent"). Based on that complaint and an investigation, the Commission determined that charges against ("Respondent") were appropriate and that a hearing on those charges should be held. This matter was scheduled for a hearing at the Office of Administrative Hearings on June 7 – June 8, 2010, but the Commission withdrew the regulatory charges against the Respondent to allow for this resolution to occur. The Commission and the Respondent consent to the entry of this Order as final resolution of Complaint No. 07-RE-742 (as to the regulatory charges against Respondent Simone).

IT IS STIPULATED BY THAT PARTIES that:

1. The Respondent was licensed as a real estate broker (License No. 01-5722) at the time of the events at issue and was the broker of record for Simone Real Estate.
2. That license expired on February 24, 2010.



3. The Respondent was also licensed as the broker of record for Tenant Buyer Homes, LLC (License No. 01-101103) at the time of the events at issue.
4. That license will expire on July 7, 2010.
5. The Respondent is also currently licensed as an associate real estate broker (License No. 03-17314) and is affiliated with Yerman, Witman, Gaines and Conklin.
6. On or about September 10, 2006, Cassandra Hawkins, buyer, signed a Residential Contract of Sale for the property known as 414 East 21<sup>st</sup> Street, located in Baltimore, Maryland.
7. Stanley Zerden, a real estate salesperson affiliated with Simone Real Estate, was the listing agent for that property.
8. Mr. Zerden identified himself as the intra-company agent with broker as dual agent on the contract of sale which he drafted for the buyer for the purchase of the property.
9. No other agent was named on the contract.
10. Mr. Zerden did not specify whether he was the agent who represented the buyer or the seller.
11. The Respondent requested that the contract of sale drafted by Mr. Zerden be corrected to reflect that Mr. Zerden was representing the seller of the property in the transaction, and that he (Respondent) was representing the buyer.
12. The Respondent failed to assign an associate broker or salesperson to act as intra-company agent on behalf of the seller or buyer.
13. The Respondent, as the broker, was not permitted act as an intra-company agent in the transaction.

14. The Respondent, who was identified as representing the buyer in the transaction, did not adequately protect her interests.
15. The Respondent did not ensure that the buyer received a signed property disclaimer/disclosure form in the transaction.
16. The form presented to the buyer was not signed by the seller.
17. The Respondent did not protect the buyer's interest by verifying that the repairs to the property were completed prior to settlement or that some writing was executed by the parties prior to the settlement to ensure the repairs would be made or money set aside for the repairs.
18. The Respondent states that there is a total of \$9,500.00 in the escrow account of Simone Real Estate.
19. The Respondent will renew his broker's license connected to Simone Real Estate for the sole purpose of distributing those escrow funds pursuant to Md. Code Ann., Business Occupations and Professions Article, §17-505.
20. Once he renews his broker's license connected to Simone Real Estate, the Respondent will not provide real estate brokerage services, as defined in Md. Code Ann., Business Occupations and Professions Article, §17-101(l).
21. Once he renews his broker's license connected to Simone Real Estate, the Respondent will not have any real estate salespersons or associate brokers affiliated with that company.
22. The Respondent enters this Consent Order freely, knowingly, and voluntarily, and with the advice of counsel.

23. By entering into this Consent Order, the Respondent expressly waives the right to any hearing or further proceeding to which he may be entitled in this matter and any rights to appeal from this Consent Order.

24. The Respondent agrees to abide by the Maryland Real Estate Brokers Act, Maryland Annotated Code, Business Occupations and Professions Article, §17-101 *et seq.*, and regulations of the Commission in future real estate transactions.

BASED ON THESE STIPULATIONS, IT IS, THIS 5<sup>th</sup> day of August, 2010, BY THE MARYLAND REAL ESTATE COMMISSION,

ORDERED that Respondent Vito Simone has violated Maryland Annotated Code, Business Occupations and Professions Article, §17-530(d)(i) and (ii) and Code of Maryland Regulations 09.11.02.02A and I, and it is further

ORDERED that the Respondent shall surrender his broker's license connected to Tenant Buyer Homes, LLC (License No. 01-101103) to the Commission within 5 days of the execution of this Consent Order by the Commission, and it is further

ORDERED that the Respondent shall apply to the Commission to change his associate real estate broker's license (License No. 03-17314) to a real estate salesperson's license within 15 days of the date on which the Commission executes this Consent Order, and it is further

ORDERED that, as soon as the Respondent has fulfilled the requirements of Md. Code Ann., Business Occupations Article §17-505, as referenced in Stipulation Nos. 18-19 above, he shall immediately surrender the real estate broker's license connected to Simone Real Estate to the Commission, and it is further

ORDERED that the Respondent may not apply for a real estate broker's license in Maryland for a period of three years from the date on which the Commission executes this Consent Order, and it is further

ORDERED that, if the Respondent fails to comply with the Orders set forth above, any real estate license which he holds shall be immediately suspended until he complies, and it is further

ORDERED that the Commission's records and publications shall reflect the terms of this Consent Order.

RESPONDENT'S SIGNATURE  
APPEARS ON ORIGINAL ORDER

VITO SIMONE

(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

COMMISSIONER *Ulysses J. Fox*  
MARYLAND REAL ESTATE COMMISSION

Date

*8/5/10*