

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE
COMMISSION

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CASE NO. 2023-RE-83

V.

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VICTORIA E. ELLIS
also known as TORI HOLT,
Respondent

*

*

and

*

CLAIM OF ANGELA KERSHNER
AGAINST THE MARYLAND REAL
ESTATE COMMISSION'S 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 and Guaranty Fund claim filed by Angela Kershner ("Complainant") against Victoria E. Ellis also known as Tori Holt ("Respondent"). Based on the complaint and an investigation, the Commission issued a Statement of Charges and Order for Hearing dated July 16, 2024 ("Charge Letter") and transmitted this matter to the Office of Administrative Hearings ("OAH") for a contested case hearing on the Commission's regulatory charges against the Respondent and the Complainant's claim against the Commission's Guaranty Fund. The OAH scheduled this matter for a contested case evidentiary hearing on November 21, 2024. To resolve this matter without a formal hearing, the Commission, Complainant, and the Respondent (collectively the "parties") have agreed to enter into this Consent Order and Settlement Agreement ("Consent Order"), which provides for the imposition of disciplinary measures that are fair, equitable, and consistent with the best interest of the people of the State of Maryland and resolves the Complainant's Guaranty Fund claim.

The parties agree and stipulate as follows:

1. At all times relevant to the matters set forth in this Consent Order, the Commission has had jurisdiction over the subject matter and the Respondent.

2. The Commission licenses the Respondent as a real estate salesperson affiliated with Home Towne Real Estate Inc, license registration number 05-669649. The Commission originally licensed the Respondent effective August 7, 2017. The Respondent renewed the license on August 7, 2019, January 13, 2022, and August 21, 2023. The Respondent's current license will expire on August 7, 2025.

3. On or about January 19, 2022, the Complainant made an offer to purchase 6581 12th Street, Chesapeake Beach, Maryland (the “property”) from sellers Justin and Katherine Levin (the “sellers”).

4. The Respondent, a former neighbor of the sellers, served as the listing and seller’s agent for the property.

5. The sellers accepted and ratified the Complainant’s purchase offer on or about January 21, 2022.

6. The property had a history of flooding and other water infiltration issues in the basement that constituted material facts about the property. The Respondent, who previously resided in the community where the property is located, failed to remain informed of matters affecting real estate in the community, did not make a reasonable effort to ascertain all material facts concerning the property so she may fulfill her obligation to avoid, error, exaggeration, misrepresentation, or concealment of material facts, and did not disclose these material facts to the Complainant at any time during the transaction.

7. The Complainant’s contract offer included a property inspections addendum and, on or about January 27, 2022, a licensed home inspector conducted an inspection of the property identifying deficiencies in the property’s condition.

8. Based on the home inspector’s findings, the Complainant requested that the sellers engage licensed contractors to make specified repairs to the property.

9. The Respondent recommended home improvement contractor Steve Skyrn trading as Earth Friendly Services, LLC (the “Skyrm”) to the sellers to make the Complainant’s requested repairs. The Respondent failed to verify whether Skyrn held a license issued by the Maryland Home Improvement Commission (“MHIC”) under Title 8 of the Business Regulation Article to act as a home improvement contractor before recommending Skyrn. The MHIC did not license Skyrn.

10. The sellers contracted with Skyrn to make repairs to the property including installing a new sump pump and French drain, and regrading under the property’s deck ostensibly to address water infiltration issues affecting the property’s basement. Skyrn did not complete the repairs prior to the agreed upon settlement date.

11. The Complainant and the sellers settled on the transaction on or about February 25, 2022. During settlement, the Complainant and the sellers entered into an escrow agreement pursuant to which the sellers provided the Complainant with \$4500 toward additional repairs.

12. The Complainant took possession of and moved into the property on or about March 1, 2022. Thereafter, the Complainant discovered repairs Skyrn made were unworkmanlike, incomplete, and inadequate. Because the MHIC did not license Skyrn, the

Complainant could not seek compensation against the MHIC's Guaranty Fund for Skyrn's unworkmanlike, incomplete, and inadequate home improvement work.

13. On or about May 16, 2022, the basement of the property flooded causing damages of more than \$50,000.

14. During the transaction at issue, the Respondent engaged in conduct demonstrating incompetency.

15. Based on the facts described in this Consent Order, the Respondent admits that she violated, and is subject to, Md. Code Ann., Business Occupations and Professions Article ("BOP") §§17-322(b)(25), (32), and (33), 17-527.4(c), Code of Maryland Regulations ("COMAR") 09.11.02.01A, C, and D, 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:

* * *

(25) engages in conduct that demonstrates bad faith, incompetency, untrustworthiness or that constitutes dishonest, fraudulent or improper dealings;

* * *

(32) violates any other provision of this title

* * *

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

* * *

§17-527.4 Requirements for real estate brokerage to verify license of service provider or home improvement contractor

(c) *Verify license of home improvement contractor.* -- If a licensee offers the name of a home improvement contractor to a client, the licensee shall:

(1) annually verify that the home improvement contractor is licensed by the Home Improvement Commission under Title 8 of the Business Regulation Article to act as a home improvement contractor before offering the name to the client; and

(2) inform the client of the website on which the licensing information may be found, and the date on which the licensee verified the information.

COMAR 09.11.02.01 Code of Ethics, Relation to the Public

A. A licensee shall remain informed of matters affecting real estate in the community, the State, and the nation.

* * *

C. The licensee shall protect the public against fraud, misrepresentation or unethical practices in the real estate field. The licensee shall endeavor to eliminate in the

community any practices which could be damaging to the public or to the dignity and integrity of the real estate profession. The licensee shall assist the Commission charged with regulating the practices of brokers, associate brokers and salespersons in this state.

- D. The licensee shall make a reasonable effort to ascertain all material facts concerning every property for which he accepts the agency so that he may fulfill his obligation to avoid, error, exaggeration, misrepresentation, or concealment of material facts.

* * *

COMAR 09.11.02.02 Code of Ethics Relations to the Client

- A. 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 his statutory obligations towards the other parties to the transaction.

* * *

16. The Respondent consents to the entry of an Order by the Commission finding that by her acts and omissions described above she violated BOP §§17-322(b)(25), (32), and (33), 17-527.4(c), Code of Maryland Regulations ("COMAR") 09.11.02.01A, C, and D, and COMAR 09.11.02.02A.

17. Based on the Respondent's violations, the Respondent further consents to the entry of an Order by the Commission suspending her real estate salesperson's license registration number 05-669649, and any other real estate licenses the Commission has issued to her, for a period of sixty (60) days commencing on the date the Commission executes this Consent Order.

18. The Respondent further consents to the entry of the Order by the Commission ordering her to complete a 3-hour Ethics course with a Commission approved education provider within sixty (60) days of the date the Commission executes this Consent Order. The Respondent agrees the required 3-hour Ethics course shall be in addition to, and not substituted for, the continuing education course requirements in BOP §17-315 and COMAR 09.11.06. The Respondent agrees to provide a certificate of completion from the instructor of the 3-hour Ethics course to the Commission within one week of her completion of the course. The Respondent agrees that should she fail to complete the 3-hour Ethics course within sixty (60) days from the date the Commission executes this Consent Order, the Respondent's real estate license registration number 05-669649 and any other real estate licenses the Commission has issued to her shall continue to be suspended until the Respondent had complied with this paragraph.

19. To resolve the Complainant's Guaranty Fund claim, the Respondent agrees to pay the Complainant, and the Complainant agrees to accept, the sum of fifty-thousand dollars (\$50,000) payable by cashier's or certified check within thirty (30) days of the date the Commission executes this Consent Order. The Claimant agrees to dismiss her claim against the Commission's Guaranty Fund upon receipt of the fifty-thousand-dollar (\$50,000) payment from the Respondent. The Respondent agrees that should she fail to make payment to the Complainant pursuant to this paragraph, the Complainant shall be entitled to a hearing on her Guaranty Fund

claim and the Respondent waives all rights to participate in the hearing or defend against the claim.

20. By entering into the Consent Order and Settlement Agreement, the Respondent expressly waives the right to an administrative hearing before the OAH, the making of Findings of Fact and Conclusions of Law by an Administrative Law Judge, any further proceedings before the Commission, and any rights to appeal from this Consent Order and Settlement Agreement to any court of competent jurisdiction.

21. The Respondent agrees and acknowledges that she enters this Consent Order and Settlement Agreement knowingly, intelligently, voluntarily, and willingly having read this Consent Order and Settlement Agreement in full after consulting with private counsel of the Respondent's choosing at the Respondent's expense.

22. The Respondent acknowledges and agrees that this Consent Order and Settlement Agreement shall constitute the Commission's Final Order concerning Case No. 2023-RE-83 and that the Commission may consider this Consent Order in connection with, and in deciding, any subsequent action or proceeding before the Commission, and that this Consent Order may, if relevant, be admitted into evidence in any matter before the Commission, its designee, and any court of competent jurisdiction.

23. The parties agree that this matter shall be withdrawn from the OAH docket for settlement purposes pursuant to COMAR 09.01.03.07.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 21st
DAY OF November, 2024 BY THE MARYLAND REAL ESTATE
COMMISSION:

ORDERED that the Respondent's has violated BOP §§17-322(b)(25), (32), and (33), 17-527.4(c), Code of Maryland Regulations ("COMAR") 09.11.02.01A, C, and D, and COMAR 09.11.02.02A it is further,

ORDERED that the Respondent's real estate salesperson's license registration number 05-669649 and any other Maryland real estate licenses that she holds shall be **SUSPENDED** for a period of sixty (60) days commencing on the date of the Commission's executes this Consent Order, and it is further

ORDERED that the Respondent shall complete a 3-hour Ethics course with a Commission approved education provider within sixty (60) days of the date the Commission executes this Consent Order and shall provide a certificate of completion from the instructor of the 3-hour Ethics court to the Commission within one week of her completion of the course. This 3-hour Ethics course shall be in addition to, and not substituted for, the continuing education course requirements in BOP §17-315 and COMAR 09.11.06. Should the Respondent fail to complete this 3-hour Ethics course within sixty (60) days of the date the Commission executes this Consent Order, the Respondent's real estate license registration number 05-669649 and any

other real estate licenses the Commission has issued to her shall continue to be suspended until the Respondent has complied with this Order; and it is further

ORDERED that the Respondent shall pay the Complainant the sum of fifty-thousand dollars (\$50,000) payable by cashier's or certified check within thirty (30) days of the date the Commission enters this Order. The Claimant shall dismiss her claim against the Commission's Guaranty Fund upon receipt of the fifty-thousand-dollar (\$50,000) payment from the Respondent. Should the Respondent fail to make payment to the Complainant as ordered, the Complainant shall be entitled to a hearing on her Guaranty Fund claim and the Respondent waives all rights to participate in the hearing or defend against the claim; and it is further

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

MARYLAND REAL ESTATE COMMISSION:

By: _____

SCOTT LEDERER, EXECUTIVE DIRECTOR

AGREED:

Victoria E. Ellis

11 / 19 / 24

VICTORIA E. ELLIS A/K/A TORI HOLT DATE
RESPONDENT

ANGELA KERSHNER, COMPLAINANT DATE