

THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE  
COMMISSION

V.

AMY J. BEALL,  
RESPONDENT

\* BEFORE CARLTON A. CURRY,  
\* ADMINISTRATIVE LAW JUDGE,  
\* OF THE MARYLAND OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* OAH No: LABOR-REC-21-24-03858  
\* MREC NO: 319-RE-2022

MARYLAND REAL ESTATE  
COMMISSION

V.

JAY DAY,  
RESPONDENT

\* BEFORE CARLTON A. CURRY,  
\* ADMINISTRATIVE LAW JUDGE,  
\* OF THE MARYLAND OFFICE OF  
\* ADMNIISTRATIVE HEARINGS  
\* OAH No: LABOR-REC-21-24-03857  
\* MREC No.: 319-RE-2022

\* \* \* \* \*

**PROPOSED ORDER**

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated January 22, 2025, having been received, read and considered, it is, by the Maryland Real Estate Commission, this 19th day of February, 2025, ORDERED,

A. That the Findings of Fact in the Recommended Decision be, and hereby are, ADOPTED;

B. That the Conclusions of Law in the Recommended Decision be, and hereby are, ADOPTED;

C. That the Recommended Order in the Recommended Decision be, and hereby is, ADOPTED;

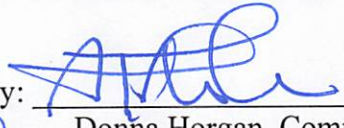
D. That the records, files and documents of the Maryland State Real Estate Commission reflect this decision.

E. Pursuant to Code of Maryland Regulations (COMAR) 09.01.03.09 those parties adversely affected by this Proposed Order shall have twenty (20) days from the postmark date of the Order to file written exceptions to this Proposed Order. The exceptions should be sent to the Executive Director, Maryland Real Estate Commission, 3rd Floor, 100 South Charles Street, Baltimore, MD 21201. If no written exceptions are filed within the twenty (20) day period, then this Proposed Order becomes final.

F. Once the Proposed Order becomes final, the parties have an additional thirty (30) days in which to file an appeal to the Circuit Court for the Maryland County in which the Appellant resides or has his/her principal place of business, or in the Circuit Court for Baltimore City.

MARYLAND STATE REAL ESTATE COMMISSION

3/3/25  
Date

By:  EXECUTIVE DIRECTOR  
Donna Horgan, Commissioner

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**\* \* \* \* \***

**PROPOSED DECISION**

**STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
PROPOSED FINDINGS OF FACT  
DISCUSSION  
PROPOSED CONCLUSIONS OF LAW  
RECOMMENDED ORDER**

**STATEMENT OF THE CASE**

On or about November 1, 2021, Colin Prieser (Complainant) filed a Complaint against Amy J. Beall (Respondent Beall) and David Stroh (Respondent Stroh), real estate salespersons,

with the Real Estate Commission (REC) for alleged violations of the Maryland Real Estate Brokers Act (Act), Md. Code Ann., Bus. Occ. & Prof. §§ 17-101 to -702 (2018 & Supp. 2024), and the provisions at Code of Maryland Regulations (COMAR) 09.11.02.02 enacted under the Act.

Following an investigation, the REC determined that charges against Respondent Beall were warranted. Further, the REC determined that charges against Jay Day (Respondent Day), a licensed real estate salesperson, were warranted in his role as team leader and supervisor of Respondent Beall. On January 22, 2024, the REC issued separate Statements of Charges (Charges) against the Respondents Day and Beall. The REC charged Respondent Day and Beall with violating sections 17-322(b)(4), (25), (32), and (33) of the Act and COMAR 09.11.02.02. The REC also charged Respondent Day with violating section 17-545(a) of the Act by failing to supervise the real estate services provided by Respondent Beall in her role as listing agent for the sale of the property located at 6503 Schneider Drive in Middletown, Maryland (Property). The Charges advised Respondents Day and Beall that if the charged violations were established following a hearing, the REC would seek suspension or revocation of any real estate license the Respondents hold, along with a fine of up to \$5,000.00 per violation. Accordingly, the REC ordered a hearing on the Charges and on January 25, 2024, forwarded the case to the Office of Administrative Hearings (OAH) to conduct a hearing. Bus. Occ. & Prof. § 17-409 (2018).

A remote merits hearing scheduled for May 23 and 24, 2024, was postponed due to a scheduling conflict with Paul Flynn, Esquire, counsel for Respondents Beall and Day. A merits hearing was rescheduled for August 27 and 28, 2024. On August 27, 2024, prior to the commencement of the hearing, counsel for Respondents Katrivanos and Stroh, David G. Zumbrunn, II, Esquire indicated that neither he nor his clients received the REC's proposed exhibits. Hope Sachs, Assistant Attorney General representing the REC, forwarded the

documents to counsel for all Respondents who jointly requested a postponement, which I granted. Thereafter, I converted the merits hearing to a prehearing conference. On August 30, 2024, I issued a prehearing conference report consolidating the cases for purposes of hearing, and scheduled a merits hearing for October 23 and 24, 2024.

On October 23 and 24, 2024, I held a hearing via Webex. Bus. Occ. & Prof. §§ 17-324(a), 17-408(a) (2018); COMAR 28.02.01.20B(1)(b). Ms. Sachs, Assistant Attorney General, Maryland Department of Labor (Department), represented the REC. Mr. Flynn represented Respondents Day and Beall, who were present. Mr. Zumbunn represented Respondents Katrivanos and Stroh, who were present.

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, the REC's procedural regulations, and the Rules of Procedure of the OAH govern procedure. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 09.01.03; COMAR 09.11.03; COMAR 28.02.01.

### **ISSUES**

1. Did the Respondents Beall and Day violate section 17-322(b)(4) of the Act by intentionally or negligently failing to disclose to the Complainant a material fact that the Respondents knew or should have known, and that related to the Complainant's Property?
2. Did the Respondents Day and Beall violate section 17-322(b)(25) of the Act by engaging in conduct that demonstrates bad faith, incompetence, untrustworthiness or constitutes dishonest, fraudulent or improper dealings?
3. Did the Respondents Day and Beall violate sections 17-322(b)(32) and (33) of the Act by violating any regulation adopted under the Act or any provision of COMAR 09.11.02 (the Code of Ethics), including COMAR 09.11.02.02, governing relations to the client?

4. Did the Respondent Day violate section 17-545(a) of the Act by, as the team leader, failing to exercise reasonable and adequate supervision of real estate brokerage services by a member of his team?

5. If so, what is the appropriate sanction?

## SUMMARY OF THE EVIDENCE

### Exhibits

I admitted the following exhibits offered by the REC:

- REC Ex. 1 Notice of Remote Hearing for MREC vs. Amy Beall, dated March 19, 2024
- REC Ex. 2 Notice of Remote Hearing for MREC vs. Jay Day, dated March 19, 2024
- REC Ex. 3 Notice of Remote Hearing for MREC vs. David Stroh, dated March 19, 2024
- REC Ex. 4 Notice of Remote Hearing for MREC vs. Paul Katrivanos, dated March 19, 2024
- REC Ex. 5 Statement of Charges and Order for Hearing for MREC vs. Amy Beal, dated January 22, 2024
- REC Ex. 6 Statement of Charges and Order for Hearing for MREC vs. Jay Day, dated January 22, 2024
- REC Ex. 7 Statement of Charges and Order for Hearing for MREC vs. David Stroh, dated January 22, 2024
- REC Ex. 8 Statement of Charges and Order for Hearing for MREC vs. Paul Katrivanos, dated January 22, 2024
- REC Ex. 9 MREC licensing history– Amy Beall, dated May 9, 2024
- REC Ex. 10 MREC licensing history – Jay Day, dated May 9, 2024
- REC Ex. 11 MREC licensing history – David Stroh, dated May 9, 2024
- REC Ex. 12 MREC licensing history – Paul Katrivanos, dated May 9, 2024
- REC Ex. 13 Report of Investigation, MREC No.: 319-RE-2022, Colin Preiser vs. Amy Beall, *et al.*, dated May 12, 2023

I admitted the following exhibits offered by the Respondents Day and Beall:

- D/B Ex. 1 Buyer Hold Harmless Form, undated
- D/B Ex. 2 Contract Documents, including:
  - Pre-Settlement Occupancy Agreement, dated July 22, 2021
  - General Addendum, dated July 22, 2021
  - General Addendum, dated August 3, 2021
- D/B Ex. 3 Home Inspection Report, dated July 2, 2021

- D/B Ex. 4 Mark-up Photo from MLS<sup>1</sup> Listing, undated
- D/B Ex. 5 MLS Link and Photos for the Property, downloaded August 16, 2024
- D/B Ex. 6 Partial Inspection Report, dated July 2, 2021
- D/B Ex. 7 Integrity Imagining Solutions Photograph Policies, undated
- D/B Ex. 8 Plumbing Invoice, dated August 3, 2021
- D/B Ex. 9 Listing History, dated May 21, 2021 through August 11, 2021
- D/B Ex. 10 Integrity Imagining Solutions Photo Request Form, dated June 9, 2021
- D/B Ex. 11 Stephen Carroll Photos, undated
- D/B Ex. 12 Not offered<sup>2</sup>

I admitted the following exhibit offered by Respondent Stroh:

Stroh Ex. 1 - Google Earth Screenshot, undated

Testimony

The REC presented the following witnesses: the Complainant and Kristine Tricario, real estate investigator.

The Respondents Day, Beall, Katrivanos, and Stroh testified. Respondents Day and Beall presented the testimony of Stephen Carroll, owner of Integrity Image Solutions, LLC.

**PROPOSED FINDINGS OF FACT**

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

1. At all times relevant to the subject of this hearing, the REC licensed Respondent Day as a real estate salesperson.
2. At all times relevant to the subject of this hearing, the REC licensed Respondent Beall as a real estate salesperson.

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<sup>1</sup> Multiple Listing Service.

<sup>2</sup> All exhibits marked for identification are retained for purposes of judicial review. COMAR 28.02.01.22C.



3. The MLS is an electronic platform utilized by real estate professionals to share information about properties for sale and find available listings for prospective buyers.

4. On or about May 21, 2021, the Property was listed on the MLS listing service as “coming soon.” (D/B Ex. 9, pg. 3).

5. On June 2, 2021, Respondent Day requested that Integrity Imaging Solutions, LLC take photographs of the Property. (D/B Ex. 10).

6. The Integrity Imaging Solutions’ Photography Policy Terms of Service specifically provides: “We will not retouch/edit photos to remove any powerlines, cracks, holes, etc.” (D/B Ex. 7, pg. 2).

7. On June 10, 2021, photographs of the Property were uploaded to the MLS.

8. Respondents Day and Beall did not have access to the photographs prior to when they were uploaded to the MLS. Integrity Imaging Solutions provided a digital file to an administrative component of the brokerage, which uploaded the photographs.

9. On June 11, 2021, the MLS listing for the Property became active. (D/B Ex. 9, pg. 2). The active listing included photographs taken by Integrity Imaging Solutions.

10. Respondent Day chose the lead photograph for the listing, which shows a high voltage powerline tower. (D/B Ex. 4, pg. 1).

11. The listing photographs show the high voltage powerline tower and powerlines on another property adjacent to the Property. (D/B Exs. 4 and 5).

12. On or about June 16, 2021, the Complainant engaged Respondent Stroh as his buyers’ agent for the purchase of a property in the state of Maryland. The Complainant and his wife lived in Tennessee and were relocating to Maryland.

13. On June 22, 2021, the Complainant expressed interest in the Property and Respondent Stroh conducted a virtual tour of the Property for the Complainant on the same day.

During the virtual tour, Respondent Stroh showed the interior and exterior of the Property to the Complainant.

14. During the virtual tour, the Complainant referenced Google images in discussing updates that had been done to the Property since the Google images were taken. The Complainant and Respondent Stroh discussed both street and aerial views of the Property.

15. The Google aerial view of the Property shows a high-voltage powerline tower and powerlines. (Stroh Ex. 1).

16. On June 22, 2021, the Complainant made an offer to purchase the property.

17. Also on June 22, 2021, the Complainant entered into a pre-settlement occupancy agreement to occupy the Property from July 22, 2021, to the initial settlement date of August 9, 2021. That agreement was extended on two occasions. (D/B Ex. 2).

18. On June 23, 2021, the Complainant contracted to purchase the property for \$525,000.00, inclusive of a \$5,000.00 deposit. (REC Ex. 13, pg. 34).

19. On July 1, 2021, a home inspection of the Property was conducted, with a report issued on July 2, 2021. The report contained photographs that included the high-voltage powerline tower and powerlines. (D/B Ex. 3, pgs. 3 and 4).

20. On July 11, 2021, the Complainant visited the Property for the first time. The Complainant contacted Respondent Stroh and expressed disappointment at the size of the high voltage powerline tower and its proximity to the Property. The Complainant also expressed possible health concerns related to the powerlines.

21. On July 16, 2021, Respondent Katrivanos met the Complainant at the Property to provide access to a contractor, as the Complainant was considering alterations to the Property upon settlement.

22. At the July 16, 2021 meeting, Respondent Katrivanos identified himself as Respondent Stroh's broker.

23. On August 2, 2021, the Complainant met with Respondents Katrivanos and Stroh at Respondent Katrivanos' office. The Complainant was unhappy that the high voltage powerline tower was so close to the property, as asked Respondents Katrivanos and Stroh what his options were concerning the Property. Respondent Katrivanos advised the Complainant that he might lose his deposit and face legal action from the seller if he walked away from the transaction. The Complainant was advised to contact an attorney for a full understanding of options and potential consequences.

24. At the August 2, 2021 meeting, the Complainant informed Respondents Katrivanos and Stroh that he believed the listing photographs have been edited to remove the high-voltage powerline tower and powerlines. Respondent Katrivanos advised the Complainant to keep the listing photographs of the Property for filing a possible complaint with the REC.

25. On August 11, 2021, the Complainant completed the purchase of the property.

26. On November 1, 2021, The Complainant filed a Complaint with the REC against Respondents Beall and Stroh.

27. As part of the REC investigation, Kristine Tricario, real estate investigator, interviewed Stephen Carroll, owner of Integrity Image Solutions.

28. Respondents Day and Beall did not ask Integrity Image Solutions to edit any picture of the Property. (REC Ex. 13, pg. 16).

29. As part of its standard business practice, Integrity Imaging Solutions outsources the processing of the digital photographs. Part of the processing of photographs includes enhancements.

30. A blue-sky edit is an enhancement in which a layer of color is placed over the original digital image to brighten the sky in a photograph.

31. The listing photographs of the Property were enhanced with a blue-sky edit by Integrity Image Solutions.

## **DISCUSSION**

### **THE REGULATORY CHARGES**

#### ***The Legal Standard***

The REC charged Respondents Day and Beall with violating subsections 17-322(b)(4), (b)(25), (b)(32), (b)(33) and section 17-545 of the Act and subsection 09.11.02.02A of COMAR. Section 17-322 of the Act provides, in pertinent part:

(b) 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:

...  
(4) intentionally or negligently fails to disclose to any person with whom the applicant or licensee deals a material fact that the licensee knows or should know and that relates to the property with which the licensee or applicant deals;

...  
(25) engages in conduct that demonstrates bad faith, incompetency, or 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;

....

Bus. Occ. & Prof. § 17-322(b) (Supp. 2024).

Section 17-545(a) of the Act provides that a “team leader shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by members of the team.” Bus. Occ. & Prof. § 17-545 (Supp. 2024).

COMAR 09.11.02.02A requires that, “[i]n accepting employment as an agent, the licensee shall protect and promote the interests of the client. This obligation of absolute fidelity

to the client's interest is primary, but it does not relieve the licensee from the statutory obligations towards the other parties to the transaction."

Moreover, regardless of whom the licensed real estate salesperson represents, the licensee has an obligation to disclose any known material facts, or facts that should have been known through a reasonable inspection, regarding the real estate property. *Lopata v. Miller*, 122 Md. App. 94 (1998). "A fact is material if its existence or nonexistence is a matter to which a reasonable man would attach importance in determining his choice of action in the transaction, or the maker of the misrepresentation knows that its recipient is likely to regard the fact as important although a reasonable man would not so regard it." *Maryland Real Estate Comm'n v. Garceau*, 234 Md. App. 324, 357 (2017) (bold in original).

### ***The Burden of Proof***

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests on the party making an assertion or a claim. State Gov't § 10-217 (2021); COMAR 28.02.01.21K. To prove an assertion or a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002). In this case, the REC bears the burden to prove by a preponderance of the evidence that the Respondents Beall and Day committed the violations alleged in the Charges. COMAR 28.02.01.21K(1), (2)(a).

For the reasons that follow, I find that the REC has failed to meet its burden.

### ***The Positions of the Parties***

The REC asserted that the evidence shows Respondent Day was negligent in his role in listing the Property on the MLS, where photographs for the Property did not include powerlines or a high-voltage powerline tower and that the powerlines and tower had been removed from the

photographs prior to being included in the listing. The REC asserted that high-voltage powerlines and towers are relevant material facts. The REC contended that Respondents Day and Beall were responsible for reviewing the photographs and how the listing is presented to the public. As such, the REC maintained that the Respondent Day violated subsections 17-322(b)(4), (25), (32), (33) and section 17-545(a) of the Act and COMAR 09.11.02.02 and requested that I impose a reprimand and a fine in the amount of \$2,000.00.

Similarly, the REC asserted that the evidence shows Respondent Beall was negligent in her role as the listing agent because she listed the Property on the MLS with photographs for the Property that did not include powerlines or a high-voltage powerline tower. The REC also asserted that Respondent Beall removed the powerlines and tower from the photographs prior to posting the photographs. The REC contended that Respondent Beall was responsible for reviewing the photographs and how the listing is presented to the public. As such, the REC maintained that the Respondent Beall violated subsections 17-322(b)(4), (25), (32), and (33) of the Act and COMAR 09.11.02.02 and requested that I impose a reprimand and a fine in the amount of \$4,500.00.

Respondents Day and Beall asserted they did not attempt to conceal the high-voltage powerline tower or powerlines on the Property nor did they alter any photographs or request that any photographs of the Property be altered. Respondents Day and Beall argued they did not have access to photographs of the Property prior to the MLS listing. Respondent Day contended that the Property was listed in accordance with his standard practices, including contracting with Integrity Image Solutions. Moreover, Respondent Day asserted that he provided proper supervision of Respondent Beall during the sale of the Property.

## *Analysis*

The REC presented the testimony of Ms. Tricario and the Complainant. Ms. Tricario testified that she interviewed the Complainant, all four Respondents, and the owner of Integrity Image Solutions, Mr. Carroll. Based on her interviews and review of all available information, she drafted a Report of Investigation. (*see* REC Ex. 13).

At the hearing, the Complainant testified that he and his wife were relocating to Maryland from Tennessee and used Google to search for real estate agents in the Frederick, Maryland area. After speaking with Respondent Stroh on June 16, 2022, and based on the home prices in the area, the Complainant went from wanting to rent a home to purchasing a property. (FOF<sup>3</sup> No. 15). On June 22, 2021, Respondent Stroh sent the Complainant the MLS listing for the Property and conducted a virtual tour of the Property with the Complainant. The Complainant testified that he did not see any high-voltage powerline towers or powerlines in the listing photographs and that during the virtual tour, he and Respondent Stroh only discussed powerlines “in the distance.” The Complainant testified that he did look at images of the Property on Google, but denied viewing or discussing an aerial view of the property, which clearly showed the high-voltage powerline tower and powerlines. (Stroh Ex. 1).

Respondent Beall testified that she has been a licensed real estate agent for eight years, holding licenses in Maryland and West Virginia. As the seller’s agent for the Property, Respondent Beall testified she reviewed the photographs of the Property and verbiage describing the Property before the listing for the Property became active on the MLS. Respondent Beall testified that she did not take or edit any photographs of the Property and had no knowledge of any photograph manipulation. Further, Respondent Beall testified she was unaware the Complainant was purchasing the Property sight unseen and no issues regarding the high-voltage

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<sup>3</sup> Finding of Fact.

tower or powerlines were brought to her attention. Respondent Beall's testimony was consistent with Ms. Tricario's report. (REC Ex. 13, pgs. 5 through 7).

Respondent Day testified that he has been managing and supervising real estate agents for approximately twenty-one years as a licensed real estate agent in Maryland, Pennsylvania, Virginia, and West Virginia. As a team leader that closes hundreds of transactions per year, he has monthly team meetings and a "morning huddle" Monday through Friday. Respondent Day testified regarding his standard practice regarding MLS listings. He testified that all listing agreements are reviewed by him before sending them to the broker. Respondent Day testified that he contracts with a local photographer and that the photographs are uploaded to the MLS before review by himself, the listing agent, and the sellers. Respondent Day further testified that this has been the procedure in place for more than fifteen years and he followed this procedure when listing the Property.

During his testimony, Respondent Day identified Integrity Image Solutions as the local photography company his team typically uses and stated that he contracted with Integrity Image Solutions to photograph the Property. (D/B Ex. 10). Respondent Day testified he was unaware of powerlines on the Property before the MLS listing and that Integrity Imaging Solutions' Terms of Service indicates it would not edit photographs to remove any powerlines. (D/B Ex. 7, pg. 2). Further, Respondent Day testified that upon review of the photographs of the Property, he chose the lead photograph, which shows the high-voltage powerline tower. (FOF No. 13; D/B Ex. 4, pg. 1). Respondent Day testified consistent with Ms. Tricario's report. (*see* REC Ex. 13, pgs. 10 through 12).

Respondents Day and Beall offered the testimony of Stephen Carroll, owner of Integrity Imaging Solutions, a real estate media company operating in Maryland, Virginia, Pennsylvania, and West Virginia. Mr. Carroll testified that his company photographs approximately fifteen



houses a day and has approximately 650 to 700 clients. Mr. Carroll further testified that it is company policy not to retouch or edit any permanent structures out of a photograph.

Mr. Carroll testified that his company offers blue-sky edits, which allows for consistent photographs and prevents rescheduling due to weather. Additionally, Mr. Carroll testified that his company performs blue-sky edits for all exterior photographs of a property, and such edits are an industry standard. Mr. Carroll explained that blue-sky edits involve substituting a layering of color, which made the powerlines appear faint in some photographs of the Property. Mr. Carroll testified consistent with Ms. Tricario's report. (*see* REC Ex. 13, pgs. 15 and 16).

Having reviewed the record, I do not find the testimony of the Complainant credible that he was unaware of the high-voltage powerline tower and powerlines based on the photographs on the MLS listing for the Property. It is acknowledged that the photographs of the Property were enhanced by Integrity Imaging Solutions with a blue sky edit, however, the lead photograph of the MLS listing has a picture of the high-voltage powerline tower. (D/B Ex. 4, pg. 1; FOF No. 13). As noted in Ms. Tricario's report, the Complainant acknowledged viewing the photographs of the Property in the MLS listing. (REC. Ex. 13, pg. 3). The Complainant contracted to purchase the Property for \$525,000.00 after reviewing the MLS listing and a virtual tour. I do not find the Complainant's assertion that he was unaware of the tower and powerline credible.

A close review of the record further calls into question the veracity of the Complainant's statements. During his interview with Ms. Tricario, the Complainant first indicated that he did not view the Property on Google, but he later acknowledged that he did view the Property on Google Maps. (REC Ex. 13, pgs. 4 and 8). Further, on cross examination the Complainant denied viewing the aerial view of the Property, but did not give a clear answer as to what he did see when he viewed the Property via Google Maps. In contrast to his prior posture of facing the camera on direct examination, when discussing the Google images and whether he knew he

could cancel the sales contract due to the inspection addendum (REC. Ex. 13, pg. 45), the Complainant shifted his body, turning sideways to the camera. The Complainant testified he did not “recall” raising the question of cancellation of the contract during the fourteen-day inspection period. Based on his changed demeanor, shifting of his body during cross examination, and the impreciseness of his answers when asked questions regarding Google images and the inspection period, and the abundant documentary evidence before me, I give little weight to the Complainant’s testimony.

The REC argued in closing that the issue is whether Respondents Day and Beall concealed the high-voltage powerline tower and powerlines from the Complainant. I concur. The REC had the burden of proof to establish that Respondents Beall and Day intentionally or negligently failed to disclose a material fact regarding the sale of the Property, i.e., the existence a high-voltage powerline tower and powerlines in close proximity. COMAR 28.02.01.21K(1), (2)(a). The photographs of the Property on the MLS demonstrate there was no attempt at concealing the high-voltage powerline tower and powerlines. Respondent Day testified to his procedures regarding listing the Property, including his reasonable reliance on his contract with Integrity Imaging Solutions to produce photographs of the Property consistent with its terms of service. The evidence as presented is insufficient to establish that Respondents Day and Beall engaged in conduct that demonstrated bad faith, incompetency, or untrustworthiness or dishonest, fraudulent, or improper dealings. Bus. Occ. & Prof. § 17-322(b)(25) (Supp. 2024). The evidence was insufficient to establish that Respondents Day or Beall intentionally or negligently failed to disclose any material fact related to the Property because the high voltage tower and power lines were visible in the MLS listing of the Property. Bus. Occ. & Prof. § 17-322(b)(4). There was no evidence of any other violation of the Act, or any regulation adopted under the Act or the code of ethics. Bus. Occ. & Prof. § 17-322(b)(32), (33). Moreover,

there was no showing that Respondent Day failed to supervise Respondent Beall as the listing agent in the sale of the Property. Bus. Occ. & Prof. §17-545(a). Respondents Day and Beall therefore did not violate their statutory obligations towards the Complainant. COMAR

09.11.02.02. Accordingly, I find the REC has failed to meet its burden of proof.

I conclude that the Respondents did not violate any of the statutes or the regulation charged, and I need not address sanctions.

### **PROPOSED CONCLUSIONS OF LAW**

I conclude that Respondents Day did not violate sections 17-322(b)(4), (25), (32), (33) and section 17-545(a) of the Business Occupations and Professions Article of the Maryland Code or COMAR 09.11.02.02.

I conclude that Respondents Day did not violate section 17-322(b)(4), (25), (32), and (33) of the Business Occupations and Professions Article of the Maryland Code or COMAR 09.11.02.02.

Consequently, I conclude that the Respondents are not subject to disciplinary sanctions.

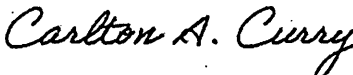
### **RECOMMENDED ORDER**

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

1. The Charges against the Respondent Day be **DISMISSED**; and
2. The Charges against Respondent Beall be **DISMISSED**; and
3. **ORDER** that the records and publications of the Maryland Real Estate Commission reflect this decision.

January 22, 2025  
Date Decision Issued

CAC/at  
#215745

  
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Carlton A. Curry  
Administrative Law Judge