

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE COMMISSION \*

v. \*

JAIME P. URTEAGA  
Respondent

\* CASE NO. 2008-RE-347  
\* OAH NO. DLR-REC-21-10-08344  
\*

\* \* \* \* \*

PROPOSED ORDER

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated November 18, 2010, having been received, read and considered, it is, by the Maryland Real Estate Commission, this 29<sup>th</sup> day of December, 2010

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 Jaime P. Urteaga violated Md. Bus. Occ. and Prof. Art. §§17-322(b)(32); 17-301(a)(2); 17-601(b); and 17-602(b);

ORDERED that the Respondent Jaime P. Urteaga be assessed a civil penalty in the amount of \$2,000.00, which shall be paid

within thirty (30) days of the date of this Proposed Order:

ORDERED that all real estate licenses held by the Respondent Jaime P. Urteaga shall be suspended unless the civil penalty is paid in full within the 30-day period, and shall remain suspended until it is paid.

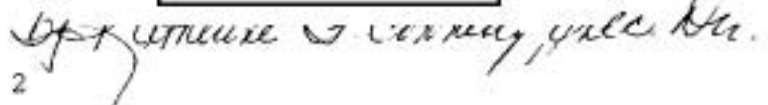
ORDERED that the records and publications of the Maryland Real Estate Commission reflect this decision.

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 because the judge omitted the provisions that the civil penalty had to be paid within 30 days, and that all real estate licenses held by the Respondent would be suspended unless the penalty is paid in full by that time. The Commission also included in its Proposed Order the specific section of the law that provides for disciplinary action against the Respondent, §17-322(b)(32), and that underlies the charges under the other substantive sections.

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.

  
Ma:

(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

  
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MARYLAND REAL ESTATE  
COMMISSION

v.

JAIME P. URTEAGA

\* BEFORE DEBORAH H. BUIE,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* OAH CASE NO.: DLR-REC-21-10-08344  
\* REC COMPLAINT NO.: 2008-RE-347

\* \* \* \* \*

**RECOMMENDED DECISION**

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

**STATEMENT OF THE CASE**

On November 26, 2007, Alexander Karavasilis (Complainant) filed a complaint with the Maryland Real Estate Commission (Commission or REC) against Jaime P. Urteaga (Respondent), a real estate salesperson, regarding the sale of residential property at 8913 Old Frederick Road, Ellicott City, Maryland. After an investigation, the Commission issued a Statement of Charges against the Respondent and Order for Hearing, dated December 30, 2009.<sup>1</sup>

On August 24, 2009, I held a hearing at the Laurel Executive Center, 312 Marshall Avenue, Laurel, Maryland. Md. Code Ann., Bus. Occ. & Prof. § 17-324 (2010). Assistant Attorney General Jessica Kaufman represented the Commission, but the Respondent failed to

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<sup>1</sup> The Commission conducted a joint investigation against the Respondent and Ashok Bhagi, Broker Respondent in related case DLR-REC-21-10-08349.

appear. The Commission provided persuasive evidence<sup>2</sup> that timely notice of the hearing date had been sent to the Respondent's address of record and not returned by the United States Postal Service, and I, therefore, proceeded to hear the case in the Respondent's absence. *See* Business Occupations Article §§ 17-324(f); Code of Maryland Regulations (COMAR) 09.01.02.09.

The Administrative Procedure Act, the procedural regulations of the Department of Labor, Licensing and Regulation, and the Rules of Procedure of the Office of Administrative Hearings govern the procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2010); COMAR 09.01.03; COMAR 09.11.03.02; and COMAR 28.02.01.

### **ISSUES**

The issues are:

1. Whether the Respondent provided real estate sales services in the sale of real property without a license in violation of sections 17-301(a)(2) and 17-601(b) of the Business Occupations and Professions Article, Annotated Code of Maryland.
2. Whether the Respondent violated section 17-602(b) of the Occupations and Professions Article, Annotated Code of Maryland by misrepresenting himself to be a licensed real estate agent.
3. If so, is he subject to sanction, and in what amount?

### **SUMMARY OF THE EVIDENCE**

#### **Exhibits**<sup>3</sup>

The only exhibits submitted were the following Commission documents, all of which were admitted into evidence:

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<sup>2</sup> *See* REC Ex. ## 1 & 3.

<sup>3</sup> All of the REC exhibits were also admitted as evidence in support of the Commission's case against Respondent Bhagi (*See* DLR-REC-21-10 08349)

- REC #1 - Notices of Hearing, dated June 10, 2010
- REC #2 - REC Licensing Information on Respondent Bhagi, dated July 12, 2010
- REC #3 - Notice of Hearing, dated June 10, 2010
- REC #4 - REC Licensing Information on the Respondent, dated July 12, 2010
- REC #5 - Report of Investigation, with attachments

Testimony

The Commission presented the testimony of Mary Kroden, Pamela Stevens, and Jennifer Grimes, Investigator, REC. No testimony was presented on the Respondent's behalf.

**FINDINGS OF FACT**

Having considered all of the evidence presented, I find the following facts by a preponderance of the evidence:

1. The Respondent held a license issued by the Commission as a real estate agent from April 4, 2006 until November 25, 2006; when he failed to renew the license, it expired. The Respondent renewed the license on December 4, 2007; that license expired on November 25, 2008 and the Respondent did not renew it.
2. The Respondent has been a licensed real estate agent in Virginia and the majority of his real estate business is conducted in Virginia.
3. On August 30, 2007, the Respondent tendered an offer for purchase of a property (the Property) located at 8913 Old Frederick Road, Ellicott City, Maryland on behalf of prospective buyers, C.S. Garcia and L. Garcia. The Garcias were residents of Virginia and their agent, R. Aliaga (Aliaga) was not licensed in Maryland.
4. Aliaga referred the buyers to a Maryland associate, D. Callao (Callao), with whom she had a professional relationship for purposes of serving clients who sought to purchase in

Maryland. Callao was a real estate agent for Ikon Realty, Inc.

5. Ikon Realty, Inc., also employed the Respondent .

6. At the time Aliaga contacted Callao, Callao was preparing to leave the country for an extended stay; he, therefore, asked the Respondent to handle the Garcias' contract.

7. The Respondent had last conducted a Maryland real estate transaction in July 2006.

8. The agent for the sellers, Mary Kroder (Kroder) of ReMax Advantage Realty, accepted the contract offer from the Respondent on behalf of the Garcias but noticed the contract form was not one utilized in Maryland. Kroder had to re-write the form to conform with Maryland's realtor forms.

9. Kroder also became suspicious because the Respondent asked her not to put his name on the contract, but the name of Callao. The Respondent did, however, inform Kroder that the buyers were Callao's clients and that he was helping Callao out because he was out of the country.

10. Kroder searched the Commission website and discovered that the Respondent was not licensed. She informed her office manager, Pamela Stevens, and her broker, who conferred with their attorney. The broker, Alexander Karavalis, decided to allow the property to go to settlement.

11. The settlement took place on October 2, 2007.

12. The Respondent performed the following services on behalf of the Garcias:

- He showed the property;
- He prepared the contract; and
- He attended settlement with the buyers.

13. Aliaga received the entire commission.

14. On November 26, 2007, Mr. Karavalis filed a complaint with the Commission. The Respondent was informed of the complaint by his broker at Ikon Realty, Inc, Ashok Bhagi, and renewed his license on December 4, 2007.

### DISCUSSION

The charges herein arise out of the Respondent's provision of real estate salesperson services, as the Garcias' agent, for the sale of a property located in Ellicott City, Maryland. It is alleged that the Respondent violated the Maryland Real Estate Brokers Act by failing to have a current salesperson license during the period when the transaction for the Property took place.

The applicable sections of law provide:

**§ 17-301. License required.**

...

(2) Except as otherwise provided in this title, an individual shall be licensed by the Commission as an associate real estate broker or a real estate salesperson before the individual, while acting on behalf of a real estate broker, may provide real estate brokerage services in the State.

Md Code Ann., Bus. Occ. & Prof. § 17-301(a)(2) (2010)

**§17-601. Providing real estate brokerage services without license.**

(b) *Associate real estate broker and real estate salesperson.*- Except as otherwise provided in this title, a person may not, on behalf of a real estate broker, provide, attempt to provide, or offer to provide real estate brokerage services unless licensed by the Commission as an associate real estate broker or a real estate salesperson to provide real estate brokerage services for that real estate broker.

**§17-602. Misrepresentation.**

(b) *Associate real estate broker and real estate salesperson.*- Unless authorized under this title to provide real estate brokerage services on behalf of a real estate broker, a person may not represent to the public by use of titles "licensed associate real estate broker" or "licensed real estate salesperson" by other title, by description of services, methods, or

procedures, or otherwise, that the person is authorized to provide real estate brokerage services in the State on behalf of that real estate broker.

There is no dispute that the Respondent allowed his salesperson license to lapse on November 25, 2006. It was not renewed until December 4, 2007. During this period, the Respondent, while acting as a salesperson with the Broker, showed the Property to prospective buyers, tendered a contract offer to the listing agent, and attended settlement with the buyers. There is also no dispute that the Respondent was also licensed in Virginia and performed the overwhelming majority of his business in that state. Finally, there is no dispute that he, in this case, was helping out a fellow agent under unique circumstances and he did not receive a commission for his services.

In his response to the Commission's charges, in a letter attached to the investigative report, the Respondent acknowledges all of the undisputed facts and states that he was unaware that his license had expired. He expressed no intent to deceive and asked the Commission to consider that as soon as his broker informed him of the complaint he renewed his license.

The evidence has demonstrated that the Respondent is subject to sanctions for three violations of the Maryland Real Estate Broker's Act. For those violations, the Respondent is subject to civil penalties:

(c) *Penalty.* - (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.

Md. Code Ann., Bus. Occ. & Prof. § 17-322(c) (2010).



The Maryland Real Estate Brokers Act was enacted to protect the public and to reassure the public that only competent and trustworthy individuals are licensed as real estate brokers and salespersons. In this case, the record does not reflect previous violations by the Respondent; however, the Commission maintains that the Respondent's misconduct in this case requires the imposition of a civil statutory penalty. I agree. I have considered the Respondent's assertion that he did not realize that his license was expired but find that explanation is insufficient to justify a lapse in licensing of more than one year.

The Commission recommended a \$2,000.00 fine. By weighing all of the relevant factors, I conclude that the Respondent should be fined \$2000.00 for violations under section 17-301(a)(2), 17-601(b) and 17-602(b) of the Business Occupations and Professions Article.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, the ALJ concludes as a matter of law that the Respondent is subject to sanction under sections 17-301(a)(2), 17-601(b) and 17-602(b) of the Business Occupations and Professions Article.

#### **RECOMMENDED ORDER**

**IT IS THEREFORE RECOMMENDED** that the Maryland Real Estate Commission:  
**ORDER** that the Respondent is subject to sanction under sections 17-301(a)(2), 17-601(b) and 17-602(b) of the Business Occupations and Professions Article; and further  
**ORDER** that a civil statutory fine of \$2,000.00 be imposed upon the Respondent under section 17-322(c) of the Business Occupations and Professions Article for the violation of sections 17-301(a)(2), 17-601(b) and 17-602(b) of the Business Occupations and Professions Article; and further

**ORDER** that the records and publications of the Commission reflect its final decision.

ADMINISTRATIVE LAW JUDGE'S SIGNATURE  
APPEARS ON ORIGINAL ORDER

November 18, 2010  
Date Decision Mailed  
#117995

**Deborah H. Bute**  
Administrative Law Judge

**DLLR**  
STATE OF MARYLAND  
DEPARTMENT OF LABOR, LICENSING AND REGULATION

MARTIN O'MALLEY, Governor  
ANTHONY G. BROWN, Lt. Governor  
ALEXANDER M. SANCHEZ, Secretary

Division Occupational & Professional Licensing  
Stanley J. Botts, Commissioner

DLLR Home Page: [www.dllr.state.md.us/license/occprof/recomm.html](http://www.dllr.state.md.us/license/occprof/recomm.html)  
MREC E-mail: [mrec@dllr.state.md.us](mailto:mrec@dllr.state.md.us)

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**  
**FIRST CLASS MAIL**  
**RESENT DUE TO ADDRESS CORRECTION**

January 14, 2011

Mr. Jaime P. Urteaga  
11952 Crimson Lane  
Silver Spring, Maryland 20904

**RE: Maryland Real Estate Commission v. Jaime P. Urteaga**  
**Case No. 2008-RE-347**

Dear Mr. Urteaga:

Enclosed is the copy of the Proposed Order of the Commission issued on behalf of MREC v. Jaime P. Urteaga heard by an Administrative Law Judge on August 24, 2009.

You have the right to file Exceptions to the Proposed Order and to present Arguments to the Commission. Written exceptions to the Proposed Order or a request to present Arguments must be filed with the Commission within 25 days of the date of this letter.

If you should fail to make your Exceptions and request to present Arguments known to the Commission within the time specified, the Proposed Order of the Commission shall be deemed final and shall become effective 30 days thereafter. This additional period is to allow time should you desire to file in a Court of Law.

Sincerely,

(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

STANLEY J. BOTTS



KFC/bai

Enclosure: Copy of Proposed Order



**DLLR**  
STATE OF MARYLAND  
DEPARTMENT OF LABOR, LICENSING AND REGULATION

MARTIN O'MALLEY, Governor  
ANTHONY G. BROWN, Lt. Governor  
ALEXANDER M. SANCHEZ, Secretary

Division Occupational & Professional Licensing  
Stanley J. Botts, Commissioner

DLLR Home Page: [www.dlfr.state.md.us/license/occprof/recomm.html](http://www.dlfr.state.md.us/license/occprof/recomm.html)  
MREC E-mail: [mrec@dlfr.state.md.us](mailto:mrec@dlfr.state.md.us)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
FIRST CLASS MAIL

January 3, 2011

Mr. Jaime P. Urteaga  
3800 Lt. Nichols Court  
Fairfax, VA. 22033

**RE: Maryland Real Estate Commission v. Jaime P. Urteaga**  
**Case No. 2008-RE-347**

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Sincerely,



(COMMISSIONER'S SIGNATURE  
APPEARS ON ORIGINAL ORDER)

*Katherine L. Armstrong*  
Executive Director

KFC/bai

Enclosure: Copy of Proposed Order

