

THE MARYLAND REAL ESTATE COMMISSION

THE CLAIM OF MICHAEL * BEFORE JAMES W. POWER,
MCDONALD, CLAIMANT * ADMINISTRATIVE LAW JUDGE OF THE
AGAINST THE MARYLAND REAL * MARYLAND OFFICE OF
ESTATE COMMISSION GUARANTY * ADMINISTRATIVE HEARINGS OAH
FUND FOR THE ALLEGED * NOS: DLR-REC-22-11-30598
MISCONDUCT OF BART A. * MREC NO: 2010-RE-352
BUTLER, RESPONDENT *

PROPOSED ORDER

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated October 14, 2011, having been received, read and considered, it is, by the Maryland Real Estate Commission, this 16th day of November, 2011,

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

and,

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

MARYLAND STATE REAL ESTATE COMMISSION

By:  SIGNATURE ON FILE

Maria S. Johnsoli, Commissioner

Date

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MICHAEL MCDONALD,	* BEFORE JAMES W. POWER,
CLAIMANT	* AN ADMINISTRATIVE LAW JUDGE
v.	* OF THE MARYLAND OFFICE
THE MARYLAND REAL ESTATE	* OF ADMINISTRATIVE HEARINGS
COMMISSION GUARANTY FUND	* OAH No.: DLR-REC-22-11-30598
BASED UPON THE ALLEGED	* REC No. 2010-RE-352
VIOLATIONS OF BART A. BUTLER,	*
RESPONDENT	

* * * * *

PROPOSED DEFAULT ORDER

On July 5, 2011, the Real Estate Commission Guarantee Fund (Fund) notified the Respondent that it was referring the claim of Michael McDonald for reimbursement from the Fund to the Office of Administrative Hearings (OAH). A hearing was scheduled for October 7, 2011 at 10:00 a.m. at the OAH in Hunt Valley, Maryland. Notices of the hearing were mailed to the parties on September 22, 2011. The Notice advised that failure to attend the hearing might result in the issuance of a Default Order.

On October 7, 2011, the hearing was convened as scheduled, at which time neither the Respondent nor the Claimant appeared. Peter Martin, Assistant Attorney General, appeared on behalf of the Fund.

At 7:00 a.m. on the October 7, 2011, the Respondent called the OAH clerk's office and left a message that he had just received the hearing notice and requested a postponement. He did not leave a return phone number.

The Fund submitted the following exhibits to establish that the parties had been notified of the hearing:

1. Hearing Notice
2. Hearing Notice
3. Letter from Mr. Martin to Respondent
4. Certified Mail receipt for Respondent
5. Affidavit of Steven Long
6. Real Estate Commission Licensing Printout
7. Department of Assessments Real Estate Printout
8. Criminal Court Docket Entries

9. Letter from Custodian of Records for the Maryland Real Estate Commission

Additionally, Mr. Martin made two phone calls to the Claimant at numbers provided by the Claimant. The Claimant could not be located at either number.

After waiting the requisite twenty minutes, during which time the Respondent and Claimant still failed to appear, and after determining that the Claimant and Respondent had received proper notice in compliance with Md. Code Ann., Bus. Occ. & Prof. § 17-408 (2008 & Supp. 2010), I indicated that a Proposed Default Order would issue in this case against the Claimant under COMAR.28.02.01.23.C.

THEREFORE, it is **PROPOSED** as follows:

1. The Claimant is found in default; and
2. All further proceedings in the captioned matter are **TERMINATED**, and a disposition of **DISMISSAL** is entered against the Claimant in this case; and
3. The Claimant or his representative may file with the Office of the Commissioner, Maryland Real Estate Commission, 500 N. Calvert St., Baltimore, Maryland 21202-3651, within fifteen days a written motion to modify or vacate this Default Order, stating the grounds for the request. If good cause is not shown to excuse the default, the Proposed Default Order will be upheld and the denial of the claim against the Respondent will stand.
4. Any motion requesting that the Proposed Default Order be vacated or modified must include a certificate of service indicating that a copy of the written motion was mailed,

postage prepaid, to Peter Martin, Assistant Attorney General, 500 N. Calvert St. Suite 406,
Baltimore, Maryland 21202-6503.

October 14, 2011

Date

JWP/kkc
#127018

^ / **SIGNATURE ON FILE**

James W. Power

James W. Power
Administrative Law Judge

SIGNATURE ON FILE