

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE
COMMISSION

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CASE NO. 2016-RE-611

V.

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RICHARD CANTWELL
TOWN CENTER REALTY & ASSOCIATES, INC.

7829 Belle Point Drive
Greenbelt, Maryland 20770

*

License Reg. No. 01-610965

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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 filed by Leonard Andrew Wallace Jr., a real estate broker, for Realty 1, Inc. (“Complainant”) against the Respondent Richard Cantwell, the real estate broker of record for Town Center Realty & Associates, Inc., license registration number 01-610965. Based on the Commission’s review of the complaint and the Respondent’s response thereto, the Commission determined that administrative charges against the Respondent are warranted. To resolve this matter without a formal hearing, the Commission and the Respondent have agreed to enter into this Consent Order and Settlement Agreement to provide for the imposition of disciplinary measures which are fair and equitable in these circumstances and which are consistent with the best interest of the people of the State of Maryland.

The Commission and the Respondent agree and stipulate as follows:

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

2. The Respondent is currently licensed by the Commission as a real estate broker, license registration number 01-610965, and is the broker of record for Town Center Realty & Associates, Inc.

3. Jeannie S. Smith is licensed as an associate real estate broker, license registration number 03-17490. Ms. Smith was affiliated with the Respondent’s brokerage from August 8, 2013 until January 1, 2016, when the Respondent discontinued the affiliation and turned in Ms. Smith’s license to the Commission. Ms. Smith is also licensed as a real estate broker license registration number 01-514966 and is the broker of record for Home Sales Advantage. At all times relevant to the matters set forth in this Consent Order and Settlement Agreement however, Ms. Smith was providing real estate brokerage services as an associate real estate broker on behalf of Respondent.

4. Christian Bruno and Benjamin Bruno (the "Brunos") are co-owners of cooperative property located at 51-B Ridge Road, Greenbelt, Maryland 20770, that is managed by Greenbelt Homes, Inc. (the "property").

5. On or about June 5, 2015, Ms. Smith, while acting as an associate broker affiliated with Town Center Realty Associates, Inc., entered into a verbal agreement with Christian Bruno to list the property for sale. Ms. Smith failed to have the Brunos execute a written listing agreement and the required disclosures and to give a copy of the written listing agreement and required disclosures to the Brunos before advertising, showing, and offering the property for sale.

6. On June 15, 2015 Ms. Smith listed the property for sale on the Metropolitan Regional Information System, Inc. database. On June 18, 2015, Benjamin Bruno executed a Power of Attorney, prepared by Greenbelt Homes, Inc., but provided to Benjamin Bruno by Ms. Smith, appointing Christian Bruno as his sole and exclusive attorney-in-fact to act in his name and on his behalf to sell, grant, and convey the property. Ms. Smith also placed a lockbox on the property and erected a "for sale" sign at the property, and, thereafter, showed the property to prospective buyers until the MRIS listing expired on January 1, 2016.

7. Because Ms. Smith was also licensed as a real estate broker, the Respondent allowed Ms. Smith, as an associate real estate broker affiliated with his real estate brokerage, to work independently in her home office and to turn in files to his office upon settlement. Until Christian Bruno contacted the Respondent on or about December 27, 2015 to discuss his discontent with Ms. Smith's services, the Respondent was unaware that Ms. Smith had failed to have the Brunos execute a written listing agreement and the required disclosures and to give a copy of the written listing agreement and required disclosures to the Brunos before advertising, showing, and offering the property for sale.

8. By allowing Ms. Smith to work independently and to turn in files to his office upon settlement, the Respondent failed to exercise reasonable and adequate supervision of Ms. Smith's provision of real estate brokerage services as an associate real estate broker on his behalf. Additionally, the Respondent failed to ensure that the residential listing contract with the Brunos was in writing and signed, and a copy of the contract was given to the seller or owner before Ms. Smith advertised, showed, or offered the property for sale.

9. The Respondent admits that based on the facts described in this Consent Order and Settlement Agreement that he has violated Maryland Real Estate Broker's Act, Md. Code Ann., Bus. Occ. & Prof. Art., §17-320(c), §17-322(b) (25), (27), and (33) as well as the Code of Maryland Regulations (COMAR) 09.11.01.12 and 09.11.05.02A, which provide:

§17-320. Employment of and contractual arrangement with salespersons and associate brokers.

(c) *Supervision by real estate broker*—(1) A real estate broker shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by any other individual, including an independent contractor, on behalf of the broker.

(2) The requirements of paragraph (1) of this subsection applies regardless of the manner in which the individual who provides the services is affiliated with the real estate broker on whose behalf the services are provided.

§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, or untrustworthiness or that constitutes dishonest, fraudulent or improper dealing.

(27) violates §17-320(c) of this subtitle by failing as a real estate broker to exercise and adequate supervision over the provision of real estate brokerage services by another individual on behalf of the broker;

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

**Code of Maryland Regulations
Title 9 Department of Labor, Licensing and Regulation
Subtitle 11 REAL ESTATE COMMISSION
Chapter 1 General Regulations**

.12 Residential listing Contracts to be in Writing and Signed

All residential listing contracts, listing real property for sale, rental, lease, or exchange, either exclusive or open, shall be in writing and signed, and a copy of the contract shall be given to the seller or owner before the licensee advertises, shows, or offers the property.

Chapter 5 Supervision

.02 Requirement of Supervision.

A. A broker shall exercise reasonable and adequate supervision over the activities of the broker's associate brokers and salespersons.

10. The Respondent consents to the entry of an Order that he has violated BOP §17-320(c), §17-322(b) (25), (27), and (33) as well as the COMAR 09.11.01.12 and 09.11.05.02A and he agrees to pay a civil monetary penalty in the amount of two thousand five hundred dollars (\$2500.00) upon the execution of this Consent Order and Settlement Agreement. The Respondent further agrees that should he fail to pay the civil penalty as agreed, any real estate licenses that he holds shall be automatically suspended and shall continue to be suspended until the civil penalty is paid in full.

11. By entering into the Consent Order and Settlement Agreement, the Respondent expressly waives the right to an administrative hearing before the Office of Administrative Hearings on the charges, the making of Findings of Fact and Conclusions of Law by an administrative law judge, any and all further proceedings before the Commission and any rights to appeal from this Consent Order.

12. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No. 2016-RE-611.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS
_____ DAY OF 6/20/17, 2017 BY THE MARYLAND REAL
ESTATE COMMISSION:

ORDERED that the Respondent has violated BOP §17-320(c), §17-322(b) (25), (27), and (33) as well as the COMAR 09.11.01.12 and 09.11.05.02A and 09.11.07.02; and it is further,

ORDERED that for the violations the Respondent be assessed a civil penalty of two thousand five hundred dollars (\$2500.00), which amount is payable to the Commission upon the Respondent's execution of this Consent Order and Settlement Agreement; and it is further

ORDERED that should the Respondent fail to pay the civil penalty, any real estate licenses that he holds shall be automatically suspended and shall continue to be suspended until the civil penalty is paid in full; 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: _____

SIGNATURE ON FILE
KATHERINE F. CONNELLY
EXECUTIVE DIRECTOR

AGREED:

SIGNATURE ON FILE

RICHARD CANTWELL

DATE

6/18/2017