

**BEFORE THE MARYLAND REAL ESTATE COMMISSION**

**In the Matter of the Audit of**

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**Paolen Kipgen**

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**CASE NO. 121-RE-2024**

**For a Salesperson License**

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**OPINION AND FINAL ORDER**

Mr. Paolen Kipgen (“Respondent”) is licensed by the Maryland Real Estate Commission (the “Commission”) as a salesperson. On or about July 14, 2023, he applied for renewal of his real estate salesperson license. In that application, Mr. Kipgen answered in the affirmative in response to the question on the on-line application: “have you completed the CE courses required since your last renewal?” After his license was renewed, he was randomly selected for a Continuing Education audit that showed he was missing the required 15 hours of credit required to renew his license for the 2023 period. Charges were issued against Respondent, and he requested a hearing in front of the Commission.

On August 21, 2024, a hearing on the allegations against Respondent was held by a panel of Commissioners, consisting of Commissioners Donna Horgan, Kambon Williams, and Michael Lord (the “August 21” Hearing”). Hope Sachs, Assistant Attorney General, appeared as the Presenter of Evidence for the Commission. Mr. Kipgen appeared without counsel. The proceedings were electronically recorded, and Respondent was placed under oath.

**SUMMARY OF EVIDENCE**

On behalf of the Commission, four (4) preliminary exhibits were submitted:

Preliminary Exhibit 1 – Commission Hearing Notice, dated May 28, 2024

Preliminary Exhibit 2 – Statement of Charges and Order for Hearing, dated May 13, 2024

Preliminary Exhibit 3 – A printouts from the Commission’s licensing system showing the

Respondent's license history and continuing education

Preliminary Exhibit 4: A copy of the Commission's Report of Investigation relating to Respondent's missing Continuing Education.

### **FINDINGS OF FACT**

From the testimony and exhibits presented, and with an opportunity to observe the demeanor of Mr. Kipgen and to assess his credibility, the Commission finds the relevant facts to be these:

1. Respondent is licensed by the Maryland Real Estate Commission (the "Commission") as a salesperson.

2. On or about July 14, 2023, Respondent applied for renewal of his real estate salesperson license.

3. Respondent was required to complete fifteen (15) clock hours of Continuing Education for the renewal period.

4. In his renewal application, Respondent claimed he completed the required Continuing Education. Specifically, he answered "yes" in response to the online application's question "Have you completed the CE courses required since your last renewal?"

5. Respondent's license was renewed.

6. Respondent was randomly selected for a Continuing Education audit by the Commission.

7. The Respondent completed one elective, 1.5-hour course for the 2023 renewal period.

8. Excluding the one, 1.5-hour course referenced above, the Respondent failed to complete any of the remaining required Continuing Education for the 2023 renewal period.

9. After being notified of his Continuing Education deficiency for the 2023 renewal period, the Respondent completed the required Continuing Education courses.

10. Respondent has no history of disciplinary action from the Commission.

### **DISCUSSION**

The purpose of licensure by the Commission is to protect the public by allowing only those individuals with good character and reputation, as well as sufficient age and education, to obtain a real estate salesperson license. Md. Code Ann., Bus. Occ. & Prof. ("BOP") § 17-303. Once licensed, an individual is required to complete fifteen (15) clock hours of Continuing Education each two-year licensing period to renew. BOP § 17-315(a). In its statement of charges, the Commission alleged Respondent violated said provision, as well as BOP §§ 17-322(b)(1), (3), (25), and (32), by not satisfying these Continuing Education requirements for the 2023 renewal period and nevertheless renewing his license. The burden of establishing allegations that a respondent violated a law or regulation is on the Presenter of Evidence. Code of Maryland Regulations ("COMAR") 09.01.02.16.

In this case, there is no dispute that Respondent failed to complete most of the required Continuing Education for the 2023 renewal period. At the August 21<sup>st</sup> hearing, the Respondent attributed his failure to complete the Continuing Education to "unintentional negligence." He explained that he had assumed he had completed the Continuing Education, having always previously renewed in time, and that he did not know he was deficient until being notified by the Commission. The Respondent testified that he had been preoccupied by various extraordinary personal circumstances and obligations. He explained that he was originally from Burma and he had brought his parents to the United States from Burma. They were unable to return home during the COVID pandemic, and his father died during this time. Because of a military coup in

the country, his mother was unable to return to Burma until 2022. Moreover, the Respondent testified that during this time period he suffered a major heart attack.

In sum, on his renewal application, the Respondent claimed to have completed the required Continuing Education. The evidence before the Commission indicates otherwise. Except for one elective course, he did not complete the required 15 hours of Continuing Education.

Respondent violated BOP § 17-315. Under BOP § 17-322(b)(32) the Commission may reprimand a licensee or suspend or revoke a license if the licensee “violates any other provision of this title.” Furthermore:

(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). Continuing Education is a bedrock of the Commission’s mission. The Commission takes the requirements seriously. Indeed, the General Assembly saw fit to mandate by law that the Commission’s licensees keep up to date on various topics. Failure to complete Continuing Education requirements puts consumers and even other licensees at financial and personal risk. It is the Commission’s position that the violation of BOP § 17-315 requires a civil penalty.

The Respondent does not dispute that he failed to complete the requisite courses. But he asked the Commission to relieve him of the Commission’s proposed settlement amount, as it would be a heavy burden for him and his family.

In her closing, Ms. Sachs proffered that the Respondent had no previous violations and that, although his actions were serious, he had nevertheless demonstrated good faith. She also noted there was no evidence of any specific harm resulting from the Respondent's actions.

The Respondent was required to complete 15 hours of Continuing Education; and he did not do so. But his conduct appears to have been attributable to negligence rather than any intent to deceive or defraud. Moreover, while not minimizing the seriousness of the violation, the Commission recognizes that the Respondent experienced significant trauma involving both family members and his own health during the relevant time. Given the Respondent has no disciplinary history with the Commission, the imposition of the maximum amount is unnecessary.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact, and for the reasons set forth in the above Discussion, the Commission concludes that Paolen Kipgen failed to meet Continuing Education requirements as required and is, therefore, in violation of BOP § 17-315(a) and consequently BOP § 17-322(b)(32). The Respondent is not in violation of BOP §§ 17-322(b)(1), (3), or (25). The Commission further concludes that the Respondent is subject to the imposition of a \$600.00 civil penalty (a \$500.00 monetary fine plus a \$100.00 administrative charge).

### **ORDER**


In consideration of the Findings of Fact, Discussion, and Conclusions of Law it is this

21<sup>st</sup> day of November, 2024, by the Maryland Real Estate Commission, **ORDERED** that:

1. The charges of the Commission pertaining to BOP § 17-315(a) and § 17-322(b)(32) against Respondent, Paolen Kipgen, are **UPHELD**;

2. The charges pertaining to BOP §§ 17-322(b)(1), (3), and (25) are **DISMISSED**;
3. A civil penalty in the amount of \$600.00 shall be assessed against Respondent, Paolen Kipgen;
4. All real estate licenses held by the Respondent, Paolen Kipgen, shall be suspended until the civil penalty is paid; and
5. The records and publications of the Maryland Real Estate Commission shall reflect this decision.

**MARYLAND REAL ESTATE COMMISSION**

By:  on behalf of  
Commissioner Donna Horgan

**NOTE:** A judicial review of this Final Order may be sought in the Circuit Court of Maryland in which the Appellant resides or has his principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.