

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE
COMMISSION**

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CASE NO. 411-RE-2023

BARRY MILLER,

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Respondent

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SETTLEMENT AGREEMENT AND CONSENT ORDER

This matter comes before the Maryland Real Estate Commission ("Commission") as the result of a complaint filed by Christie Andrea Kyriacos ("Complainant") against Barry Miller ("Respondent"). Based on the complaint and an investigation, the Commission issued a Statement of Charges and Order for Hearing against the Respondent dated June 7, 2024 ("Charge Letter") and transmitted this matter to the Office of Administrative Hearings ("OAH") for a hearing. By a Notice of Hearing dated June 25, 2024, the OAH scheduled this matter for hearing on Friday, October 11, 2024. To resolve this matter without a formal hearing, the Commission and the Respondent (collectively the "Parties") have agreed to enter into this Settlement Agreement and Consent Order ("Consent Order") to provide for the imposition of disciplinary measures that are fair, equitable, and consistent with the best interest of the people of the State of Maryland.

The Parties agree and stipulate as follows:

1. At all times relevant to the matters set forth in this Consent Order, the Commission has had jurisdiction over the subject matter and the Respondent.
2. The Commission currently licenses the Respondent as an associate real estate broker affiliated with Coldwell Banker Realty, license registration number 03-579609.
3. While affiliated with broker Execuhome Realty, the Respondent entered an Exclusive Right to Sell Residential Brokerage Agreement dated November 18, 2020 ("listing agreement") with the Complainant related to Complainant's property known as 2019 Deering Avenue, Baltimore, Maryland 21230 ("property").
4. While serving as the Complainant's listing agent, the Respondent offered the names of home improvement contractors to the Complainant to make repairs to the property but failed to verify whether the recommended home improvement contractors held licenses issued by the Maryland Home Improvement Commission.
5. The Respondent subsequently provided a receipt to the Complainant on the letterhead of BWM Homes Property Management that listed the types and costs of the repairs

made (which totaled \$7000) but did not identify the names and license numbers of the home improvement contractors who performed the work.

6. The Complainant settled on the sale of the property on or about February 12, 2021. After settlement, the Respondent accepted a payment of \$7000 directly from the Complainant related to the repairs made to the property before the Respondent listed the property for sale.

7. Based upon the facts described above, the Respondent admits that he has violated and is subject to Business and Occupations Article, Annotated Code of Maryland ("BOP") §§17-322(b)(21), (32), and (33), 17-527.2(c) and COMAR 09.11.02.02A, which provide:

**§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:

* * *

(21) for real estate brokerage services provided by an associate real estate broker or a real estate salesperson, accepts a commission or other valuable consideration from any person other than a real estate broker with whom the associate broker or the salesperson is affiliated;

* * *

(32) violates any other provision of this title;

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

§ 17-527.4. Requirements for real estate brokerage to verify license of service provider or home improvement contractor.

* * *

(c) If a licensee offers the name of a home improvement contractor to a client, the licensee shall:

(1) annually verify that the home improvement contractor is licensed by the Home Improvement Commission under Title 8 of the Business Regulation Article to act as a home improvement contractor before offering the name to the client; and

(2) inform the client of the website on which the licensing information may be found, and the date on which the licensee verified the information.

COMAR 09.11.02.02-A

A. In 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 his statutory obligations towards the other parties to the transaction.

8. The Parties agree that the Commission shall enter an Order finding that the Respondent violated BOP §§17-322(b)(21), (32), and (33), 17-527.2(c), and COMAR 09.11.02.02A, and ordering that the Respondent to pay a civil monetary penalty of five-thousand-dollars (\$5000) by certified check, cashier's check or money order payable to the "Maryland Real Estate Commission" within ninety (90) days of the Commission's Order.

9. The Respondent agrees that should he fail to pay the civil monetary penalty as ordered, the Commission shall automatically suspend the Respondent's real estate license registration number 03-579609 as well as any other real estate licenses that the Respondent holds without a hearing, and that the license suspension shall continue until the Respondent has paid the civil monetary penalty in full.

10. By entering into the Consent Order, the Respondent expressly waives the right to an administrative hearing before the OAH, the making of Findings of Fact and Conclusions of Law by an Administrative Law Judge, any further proceedings before the Commission, and any rights to appeal from this Consent Order to any court of competent jurisdiction.

11. The Respondent agrees and acknowledges that he enters this Consent Order knowingly, intelligently, voluntarily, and willingly having read this Consent Order in full after consulting with or having had the opportunity to consult with private counsel of the Respondent's choosing at the Respondent's expense.

12. The Respondent acknowledges and agrees that this Consent Order shall constitute the Commission's Final Order concerning Case No. 411-RE-2023 and that the Commission may consider this Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Commission, and that this Consent Order may, if relevant, be admitted into evidence in any matter before the Commission, its designee, and any court of competent jurisdiction.

9th **BASED ON THE PARTIES STIPULATIONS AND AGREEMENTS, IT IS THIS**
DAY OF October, 2024 BY THE MARYLAND REAL ESTATE
COMMISSION:

ORDERED that the Respondent violated BOP §§17-322(b)(21), (32), and (33), 17-527.2(c) and COMAR 09.11.02.02A; it is further,

ORDERED that the Respondent shall pay a five-thousand-dollar (\$5000) civil monetary penalty by certified check, cashier's check, or money order payable to the "Maryland Real Estate Commission" within ninety (90) days of the date of this Order; and it is further

ORDERED that should the Respondent fail to pay the civil penalty within ninety (90) days of the date of this Order, the Commission shall automatically suspend all real estate licenses that the Respondent holds until the Respondent pays the civil monetary penalty in full; and it is further

ORDERED that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as agreed unless the Commission stays, modifies, terminates, or suspends the provisions in writing; and it is further

ORDERED that this Consent Order shall constitute the Commission's Final Order concerning Case No. 411-RE-2023; and it is further

ORDERED that the Commission's records and publications shall reflect the terms of this Consent Order.

MARYLAND REAL ESTATE COMMISSION:

By: _____

Scott Lederer, Executive Director

AGREED:

10-7-24
Date

Barry Miller, Respondent