

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE
COMMISSION**

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* **CASE NO. 12-RE-228**

V.

**PHILLINA PEETE-TOOKES
COMMUNITY SELECT REALTORS
7168 MILLBURY COURT
ELKRIDGE, MARYLAND 21075
LICENSE NO. 01-530617**

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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 Tamara Alexander ("Complainant") against Anthony B. Tookes ("Mr. Tookes"), a licensed real estate salesperson affiliated with Community Select Realtors. Based on the complaint and an investigation the Commission filed a complaint against the Respondent, Phillina Peete-Tookes, license registration number 01-530617, the broker of record for Community Select Realtors ("Respondent"). On July 6, 2012 the Commission issued a Statement of Charges and Order for Hearing against the Respondent. The matter was transmitted to the Office of Administrative Hearings for a hearing. A hearing was scheduled for July 23, 2012 at 10:00 a.m. at the Office of Administrative Hearing in Wheaton, Maryland. 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 parties agree and stipulate as follows:

1. The Respondent is currently licensed by the Commission as the real estate broker of record for Community Select Realtors, license registration number 01-530617. 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 Complainant, as buyer, entered into a contract of sale with Freddie Mac as seller to purchase 2410 North Charles Street, Baltimore, Maryland on or about February 19, 2009.
3. Mr. Tookes acted as the Complainant's buyer's agent in the transaction but failed to enter into or to keep with his records a written buyer's brokerage agreement with the Complainant and an agency disclosure form executed by the Complainant.
4. Mr. Tookes represented to the Complainant that he was also a licensed mortgage broker and could assist the Complainant with getting financing to purchase

the North Charles Street property. However Mr. Tookes mortgage lender's license for his company Medallion Mortgage LLC d/b/a Vanguard Mortgage had expired prior to the transaction and he failed to inform the Complainant that his license was expired.

5. Settlement on the transaction was scheduled for May 14, 2009. At no time prior to settlement did Mr. Tookes and Complainant enter into a written agreement concerning the payment of fees related to either Mr. Tookes real estate brokerage services or the mortgage brokerage services. Notwithstanding, prior to the settlement date, Mr. Tookes sent two emails to the Complainant regarding fees. In an April 2, 2009 email to the Complainant Mr. Tookes stated that there would be a 1.75% mortgage broker fee (\$3,320.63) and a real estate administration fee of \$395.00. In a May 12, 2009 e-mail to the Complainant Mr. Tookes stated that there would be a 2.75% mortgage broker fee (\$6,572.50) and a real estate administration fee of \$1,875.00. Although the Complainant did not agree to pay the stated fees, at settlement on May 14, 2009, the HUD-1 listed an administration fee of \$7,303.00 and Mr. Tookes refused to agree to reduce the fee.

6. Subsequent to the May 14, 2009 settlement, the Complainant's lender notified her that a second settlement was necessary to finalize the transaction and a second settlement was scheduled for May 26, 2009. Without providing an itemization or explanation for the fees, Mr. Tookes notified the Complainant in an e-mail that the total administration fee on the new HUD-1 would be \$6922.50.

7. Between May 14, 2009 and May 26, 2009, the Complainant requested from Mr. Tookes on several occasions an itemized accounting of the administration fees to explain and justify the fees. Mr. Tookes failed to provide an itemization and explanation as requested by the Complainant prior to the May 26, 2009 settlement date.

8. Mr. Tookes did not attend the May 26, 2009 settlement however he agreed by telephone to reduce his fees to \$4700.00. Mr. Tookes did not prepare or have the Complainant sign a written agreement related to these administration fees nor did he provide an itemization or explanation for the administration fees.

9. The Respondent received a commission of \$11,385.00 from the transaction. However, the Respondent's real estate broker's license had expired on March 2, 2009 and it was not renewed until May 29, 2009. Notwithstanding, the Respondent allowed Mr. Tookes to provide real estate brokerage services to the Complainant during the period when her broker's license was expired and by doing so allowed Mr. Tookes to act beyond the scope of his real estate salesperson's license. The Respondent also received impermissible compensation in the transaction.

10. During the course of the transaction at issue the Respondent failed to provide reasonable and adequate supervision of Mr. Tookes.

11. Based on the acts and omissions described in this Consent Order, the Respondent admits that she has violated Business and Occupations Article, Annotated Code of Maryland ("BOP") §§17-301, 17-320(c), 17-322(b) (23), (27), (32) and (33), 17-601, and 17-604, as well as Code of Maryland Regulations (COMAR) 09.11.05.02A which provide:

§17-301 License required.

(a) *In general.*—(1) Except as otherwise provided in this title, an individual shall be licensed by the Commission as a real estate broker before the individual may provide real estate brokerage services in the State.

§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.

§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:

* * *

(23) pays or receives a rebate, profit, compensation or commission in violation of any provision of this title;

* * *

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

* * *

(32) violates any other provision of this title;

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

* * *

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

(A) *Real estate broker* — Except as otherwise provided in this title, a person may not provide, attempt to provide, or offer to provide real estate brokerage services unless licensed by the Commission as real estate broker

§17-604. Paying compensation

(a) *In general.*— Except as provided in subsection (b) of this section, a real estate broker, an associate real estate broker or a real estate salesperson may not pay compensation, in any form, for the provision of real estate brokerage services to any person who is not licensed under this title.

COMAR 09.11.05.02

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

11. The Respondent consents to the entry of an Order that she has violated BOP §§17-301, 17-320(c), 17-322(b) (23), (27), (32) and (33), 17-601 and 17-604, as well as COMAR 09.11.05.02A and she agrees to pay a total civil penalty of \$5000.00 no later

than September 20, 2012 for the violations. The Respondent agrees that if she fails to make the payment by September 20, 2012 that any real estate licenses that she holds shall be automatically suspended until such time as the payment is made.

12. The Respondent, by entering into the Consent Order and Settlement Agreement, expressly waives the right to an administrative hearing on the regulatory charges before the Office of Administrative Hearings, 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.

13. The Respondent enters into this Consent Order and Settlement agreement voluntarily and knowingly. The Respondent understands she had the right to seek the advice of counsel before entering into the Agreement.

14. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No. 12-RE-228

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 24th DAY OF July, 2012, BY THE MARYLAND REAL ESTATE COMMISSION:

ORDERED that the Respondent has violated BOP §§17-301; 17-320(c); 17-322(b) (23), (27), (32) and (33); 17-601; 17-604; as well as Code of Maryland Regulations (COMAR) 09.11.05.02A; and it is further,

ORDERED that based on the violations, the Respondent be assessed a civil penalty of \$5000.00 for the violations, which amount is payable to the Commission no later than September 20, 2012, and it is further

ORDERED that if the Respondent fails to pay the \$5000.00 civil penalty by September 20, 2012 any real estate licenses she holds shall be automatically suspended until such time as the payment is made; 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] **SIGNATURE ON FILE**
KATHERINE F. CONNELLY
EXECUTIVE DIRECTOR

AGREED:
[Signature] **SIGNATURE ON FILE**
Phillina Peete-Tookes, Respondent

July 20, 2012
Date