

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**IN THE MATTER OF THE
SUMMARY SUSPENSION OF
ASSOCIATE BROKER'S LICENSE
FOR DAWN PONSI-MILES**

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CASE NO. 2007-RE-452

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OPINION AND FINAL ORDER

INTRODUCTION

On January 10, 2008, the Real Estate Commission notified Dawn Ponsi-Miles that her real estate Associate Broker license number 518065 was summarily suspended under Section 17-328, Business Occupations and Professions Article (“BOP”), Annotated Code of Maryland. The summary suspension was based on a finding that Dawn Ponsi-Miles had “...failed to display all records, books, accounts of funds held in trust on demand of Commission representative made October 11, 2007 at Mount Vernon Realty located at 3500 Boston Street in Baltimore, Maryland.” Ms. Ponsi-Miles was advised in the summary suspension letter that the suspension would continue in effect until disposition by the Commission after a hearing on charges that she violated Section 17-322, BOP Article, Annotated Code of Maryland or until such time as she made her records, books and accounts of funds held in trust available for examination by a Commission representative. By letter dated June 17, 2008, Ms. Ponsi-Miles requested a hearing on the summary suspension.

In a letter to Ms. Ponsi-Miles, dated July 18, 2008, she was advised that a hearing was scheduled for August 20, 2008 at 12:30 p.m. before the Commission. The letter to

Ms. Ponsi-Miles was sent to her at the address she had provided in her June 17, 2008 letter to the Commission. A Commission panel, consisting of Commissioners J. Nicholas D'Ambrosia, Surina A. Jordan and Sydney Machat, convened at the scheduled time of 12:30 p.m. on August 20, 2008 and waited for twenty minutes. Ms. Ponsi-Miles did not appear, and did not contact the Commission by telephone to indicate any reasons for her delay or non-appearance. The Presenter of Evidence was Peter Martin, Assistant Attorney General. Mr. Robert Oliver, Investigator for the Real Estate Commission, appeared as a witness. The proceedings were electronically recorded.

SUMMARY OF EVIDENCE

On behalf of the Commission, the Presenter of Evidence offered six exhibits, all of which were accepted.

Attachment 1 to Commission's Exhibit 5 is the complaint filed against Miles & Associates on January 11, 2007. It requested return of the Buyer's deposit, and suggested that a Release document had been improperly altered.

Mr. Oliver testified that he is an investigator for the Real Estate Commission and he attempted, unsuccessfully, to interview Ms. Ponsi-Miles on several occasions. He stated that four letters were sent to Ms. Ponsi-Miles requesting her response to the complaint as evidenced by attachments 10 through 13 of Commission's Exhibit 5. Mr. Oliver testified that no responses were received to those letters which were sent to her address of record. He stated that Assistant Executive Director Steve Long had contacted Ms. Ponsi-Miles in August, 2007 and instructed her to provide a copy of a release agreement as well as her response to the complaint. Although Ms. Ponsi-Miles informed Mr. Long that she would fax the materials to him she did not. Mr. Oliver testified that he

subsequently made attempts to contact Ms. Ponsi-Miles on September 18, 2007; and September 26, 2007 prior to reaching her on October 3, 2007. A meeting at her place of employment was scheduled for October 4, 2007 and she advised that she would provide her response and a copy of the requested release agreement at that time. On October 4, 2007, Ms. Ponsi-Miles rescheduled the appointment to October 11, 2007. Mr. Oliver stated that he arrived for the appointment on October 11, 2007 at her office and waited twenty minutes before calling her cell phone number. He stated that her mailbox was full so he paged her but received no response.

Mr. Oliver testified that he interviewed Steve Long concerning this matter on July 31, 2008 at which time Mr. Long informed him that he had interviewed Ms. Ponsi-Miles on January 10, 2008. During that interview he gave her the notice of summary suspension and informed her that she would have to provide the escrow records or request the Commission to conduct a hearing before the suspension could be lifted. Mr. Oliver informed the Commission that the escrow records have never been provided.

The licensing records of the Commission (Commission's Exhibit 4) reflect that Ms. Ponsi-Miles was the broker of Miles & Associates, LLC from September 23, 2002 until March 5, 2007. On that date, she became an Associate Broker at Century 21 Mount Vernon Realty.

FINDINGS OF FACT

The Commission finds:

1. Ms. Ponsi-Miles was the Broker of Miles & Associates, LLC from September 23, 2002 until March 5, 2007. She then was an Associate Broker at Century 21 Mount Vernon Realty which became Mount Vernon Realty on September 19, 2007.

2. Ms. Ponsi-Miles' Associate Broker's license was summarily suspended on January 11, 2008 because she failed to display all records, books, and accounts of funds held in trust on demand of a Commission representative.

3. Ms. Ponsi-Miles has failed to provide the Commission with a response to a complaint filed against her within twenty business days as required by Code of Maryland Regulations ("COMAR") 09.11.01.16. The complaint alleged that the complainant's signature had been forged on a Release of Deposit Agreement, and that the complainant's deposit had not been returned.

4. Ms. Ponsi-Miles has failed to provide the Commission with the Release of Deposit Agreement which was the subject of the complaint filed against her.

5. Ms. Ponsi-Miles has failed to provide the Commission with the escrow records of the transaction which was the subject of the complaint filed against her.

6. The Commission may summarily suspend a license if the licensee, on demand, fails to display to the Commission all records, books, and accounts of any money held in trust. Section 17-328(a)(2), BOP Article, Annotated Code of Maryland.

CONCLUSIONS OF LAW

Based on the unrefuted evidence presented at its hearing, the Commission concludes that the Ms. Dawn Ponsi-Miles has violated Section 17-328(a)(2), BOP Article, Annotated Code of Maryland, and further concludes that Ms. Ponsi-Miles' Associate Broker's license should remain suspended due to her failure to respond, in a timely fashion, to the complaint filed against her and her failure to provide the escrow records and Release of Deposit Agreement demanded by the Commission.

ORDER

It is this 26th day of August, 2008 **ORDERED** that Dawn Ponsi-Miles' Associate Broker's license remains **SUSPENDED** and that the records, files and documents of the Real Estate Commission reflect this decision.

MARYLAND REAL ESTATE COMMISSION

By: Katherine J. Connelly, Exec. Dir.
for Commissioner Suzanne A. Jordan

Note: A judicial review of this Final Order may be sought in the Circuit Court of Maryland in the county in which the licensee resides or has her 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.