

MARYLAND REAL ESTATE COMMISSION \*

BEFORE THE

\*

MARYLAND REAL

\*

v.

ESTATE COMMISSION

\*

GERMAN PENA,

COMPLAINT NO.: 2008-RE-0005

\*

Respondent

\* \* \* \* \*

CONSENT ORDER

This matter comes before the Maryland Real Estate Commission ("Commission") based on a complaint filed by Robert Callaway against German Pena ("Respondent"). Based on that complaint, the Commission determined that charges against the Respondent were appropriate and that a hearing on those charges should be held. The matter is scheduled for hearing at the Office of Administrative Hearings on May 12, 2011, but the Commission and the Respondent reached an agreement to resolve the matter as to the administrative charges against the Respondent. The Commission and the Respondent consent to the entry of this Order as final resolution of Complaint No. 08-RE-0005 as to the administrative charges filed against the Respondent (but not as to the Guaranty Fund claim filed by Mr. Callaway).

IT IS STIPULATED BY THE PARTIES that:

1. The Respondent was licensed as a real estate broker (License No. 01-514829) and was the broker of record for Homepro Realty at all relevant times.
2. The Respondent's license expires August 2, 2011.

3. On or about April 24, 2007, a contract of sale for 2404 Lackawanna Street, Hyattsville, Maryland, was ratified.

4. The Respondent was the buyer's agent in this transaction.

5. Robert Callaway was the executor of the estate of the seller of the property.

6. A letter from Bank of America dated April 18, 2007 was submitted with the offer to purchase and stated that the buyer was preapproved for a loan for the entire purchase price of \$450,000.

7. Mr. Callaway accepted the offer, and settlement on the property was scheduled for May 21, 2007.

8. A deposit check in the amount of \$2,000 was provided by the buyer and was to be held in escrow by the Respondent's company, Homepro Realty.

9. Two days before the settlement date, the Respondent contacted Ginger Hand, the listing agent, and advised her that the buyer's loan had not been approved.

10. The Respondent presented a release agreement, dated May 17, 2007, which required that the \$2,000 deposit be released to the buyer.

11. Mr. Callaway did not sign the release drafted by the Respondent.

12. No evidence had been provided that the buyer had been unable to obtain the loan.

13. On June 19, 2007, Mr. Callaway was faxed a letter purporting to be from the Bank of America, advising that the buyer's loan had not been approved.

14. The letter appeared to Mr. Callaway to be fabricated, since it was dated after the date of the fax to him, contained spelling and grammatical errors, and the bank logo was on the opposite side of the document from the preapproval letter.

15. The Respondent had drafted the letter, or arranged to have it drafted, to simulate a non-approval letter from the lender.

16. The letter was not from Bank of America and was sent without the bank's permission or knowledge.

17. The Respondent enters this Consent Order freely, knowingly, and voluntarily, and with the advice of counsel.

18. By entering this Consent Order, the Respondent expressly waives the right to any hearing or further proceedings to which he may be entitled in this matter and any rights to appeal from this Consent Order.

19. The Respondent agrees to abide by the Maryland Real Estate Brokers Act, Maryland Annotated Code, Business Occupations and Professions Article, §17-101 *et seq.*, and regulations of the Commission in future real estate transactions.

BASED ON THESE STIPULATIONS, IT IS, THIS 12<sup>th</sup> day of May, 2011, BY THE MARYLAND REAL ESTATE COMMISSION,

ORDERED that the Respondent has violated Md. Bus. Occ. & Prof. Code Ann., §17-322(b)(25), (32), and (33) and 17-532(c)(1)(iv), as well as Code of Maryland Regulations .09.11.01.07, and it is further

ORDERED that the Respondent is assessed a total civil penalty of \$5000.00 for those violations, which amount is payable to the Commission within sixty days of the date this Order is signed by the Commission, and it is further

ORDERED that the Respondent complete three 3-hour courses in real estate ethics, real estate contracts and real estate broker supervision (over and above statutory and regulatory

requirements concerning continuing education) and provide written verification of successful completion of those courses to the Commission within 90 days of the date this Order is signed by the Commission, and it is further

ORDERED that, if payment of the civil penalty is not made within that 60-day period and/or if the Respondent fails to provide written verification of the successful completion of the three courses within that 90-day period, the Respondent's real estate license shall be automatically suspended until that payment is made and/written verification is received, and it is further

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

Consent Order.

SIGNATURE ON FILE

GERMAN PENA

SIGNATURE ON FILE

COMMISSIONER  
MARYLAND REAL ESTATE COMMISSION

Date

05/10/2011