

**BEFORE THE MARYLAND REAL ESTATE COMMISSION**

**MARYLAND REAL ESTATE  
COMMISSION**

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\* **OAH CASE NO. DLR-REC-21-19-22150**

v.

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**JENNIE D. MORLEY  
Respondent**

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**MREC CASE NO. 2019-RE-444**

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**OPINION AND FINAL ORDER**

This matter came before a hearing panel of the Maryland Real Estate Commission (“Commission”) on January 20, 2021 as a result of written exceptions filed by Respondent, Jennie D. Morley, to the Commission’s Proposed Order of June 17, 2020. On January 24, 2020 Administrative Law Judge Jennifer L. Gresock (“ALJ”) convened a hearing (“ALJ Hearing”) at the Office of Administrative Hearings (“OAH”) on the complaint filed against Respondent. The ALJ filed a Recommended Decision in which she recommended that Respondent be found to be in violation of the Maryland Real Estate Brokers Act, Title 17 of the Business and Occupations Article of the Maryland Code (“BOP”) and that as a result her license be revoked. On June 17, 2020, the Commission issued the Proposed Order affirming the ALJ’s Findings of Fact, approving the Conclusions of Law, and adopting the Recommended Order.

On or about July 7, 2020, Respondent filed written exceptions to the Proposed Order. A virtual hearing on the exceptions was held January 20, 2021 (“January 20th Hearing”) before a panel consisting of Commissioners Anne Cooke, Kambon Williams, and Jeff Wright (“Panel”). Hope Sachs, Assistant Attorney General, appeared as the presenter of evidence on behalf of the Commission. Respondent was represented by counsel, Michael Shaw, Esq., at the January 20th Hearing. The proceedings were electronically recorded.

## **PRELIMINARY MATTERS**

At the January 20th Hearing, Respondent moved to introduce a letter from Respondent's counsel, Michael P. Shaw, to the Executive Director of the Commission, dated January 5, 2021 ("January 5th Letter"). The January 5th Letter included a list of Commission cases and additional arguments made thereon. The presenter of evidence opposed Respondent's motion. Pursuant to the Code of Maryland Regulations ("COMAR") 09.01.03.09 K:

**Additional evidence may not be introduced unless the party seeking to introduce it demonstrates to the satisfaction of the administrative unit that the new evidence:**

- (1) Is relevant and material;**
- (2) Was not discovered before the ALJ hearing; and**
- (3) Could not have been discovered before the ALJ hearing with the exercise of due diligence.**

Respondent insisted the January 5th Letter was not new evidence, but rather additional argument. January 20, 2021 Hearing Transcript ("Hr'g. Tr.") 12.

The Panel recessed to review and after careful consideration, determined the letter was inadmissible because while it was not additional evidence subject to review under COMAR 09.01.03.09 K it was a written exception submitted to the Commission well past the 20 day period under COMAR 09.01.03.09 A. Respondent was advised that oral argument may include discussion of the cases in the January 5th Letter but that the letter itself would not be added to the record. Hr'g. Tr. 15-17.

## **SUMMARY OF THE EVIDENCE**

On behalf of the Commission, three exhibits, as well as the OAH file containing the exhibits which were introduced at the ALJ Hearing, were admitted and entered into evidence:

- REC Ex. 1: Proposed Order and Recommended Decision**
- REC Ex. 2: Respondent's exceptions**
- REC Ex. 3: Commission hearing notices**

A transcript of the ALJ Hearing was requested by Respondent and timely provided to the Commission.

### **FINDINGS OF FACT**

The Commission adopts the Findings of Fact recommended by the ALJ.

### **DISCUSSION**

Respondent is a licensed real estate salesperson employed by EXP Realty, LLP ("EXP"). FF 1-2.<sup>1</sup> From 1999 until her employment with EXP commenced in 2015 Respondent worked in the financial services industry with her husband. FF 3. In 2006 the Maryland Securities Commissioner ("MSC") issued a Consent Order (the "2006 Consent Order") against Respondent, barring her from participating in the securities and investment business and ordering her to pay restitution, among other requirements. FF 4. A similar consent order was issued against her husband. FF 5. The Respondent paid all the restitution. FF 6. From April 2015 to December 2018 the MSC again took action, culminating in a complaint for injunctive relief against Respondent and businesses she owned. FF 7-13. The counts specific to Respondent included allegations that she violated the 2006 Consent Order and a number of violations of the Maryland Securities Act, including registration violations, making untrue statements of material fact, omitting material facts, fraud or deceit on investors by recommending unsuitable investments to clients, failing to provide proper disclosures to clients, and engaging in dishonest and unethical business practices. FF 13-14. In December of 2018 Respondent agreed to another consent order (the "2018 Consent Order") which included a permanent ban from the securities and investment business and a nearly \$4 million penalty. FF 15.

The ALJ found that the Commission met its burden to show Respondent violated BOP § 17-322(b)(25) by engaging in conduct demonstrating untrustworthiness. The ALJ concluded that

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<sup>1</sup> FF refers to the Findings of Fact in the ALJ's Recommended Decision.

Respondent's license should be revoked but that any monetary sanction was unnecessary.  
Recommended Decision 13.

In written exceptions Respondent argued the ALJ failed to recognize that the Commission had not alleged Respondent failed to disclose the 2006 Consent Order and thus her reliance on it was flawed. Resp't's exceptions 2. In her written exceptions and at the January 20th Hearing Respondent argued the ALJ made several additional errors:

1. The Commission does not ask about other agencies' actions against applicants or renewing licensees and thus was subjecting Respondent to a "different standard of conduct" and as a result, the 2006 Consent Order should not have weighed so heavily in the ALJ's recommendations, Resp't's exceptions 3, Hr'g. Tr. 19.
2. The statement of charges included charges dropped by the Commission and failed to include facts sufficient to sustain a charge under BOP §17-222(b)(25), having only established untrustworthiness. Resp't's exceptions 4. Further the ALJ failed to recognize that Respondent did not admit to the charges in the 2018 Consent Order and thus a violation could not be proven. Resp't's exceptions 2-3, 5 Hr'g. Tr. 19-20, 31.
3. Revocation was too severe given "precedent" that the Commission have a "obligation" to consider Hr'g. Tr. 21-22. Respondent's case was different from others before her because she was not convicted of a crime, did not lie on her application, did not admit to the allegation upon which the Commission relied when issuing the charges, the alleged conduct is not at all related to "the business of real estate", that her previous work was "vastly different" from that of a real estate agent, that she cooperated during the investigation, and that during her tenure as a real estate agent not a single complaint has been filed against her relating to her real estate activity. Resp't's exceptions 6-9, Hr'g. Tr. 22-24.

At the hearing, the presenter of evidence argued the ALJ had not erred, for example under BOP §17-222(b)(25) there is no requirement that untrustworthiness *and* dishonest, fraudulent, or improper dealings need to be proven, untrustworthiness alone is sufficient. (emphasis added.) Hr'g. Tr. 27. Further, the ALJ did make reference to the fact that Respondent disputed her agreement to the facts in the 2018 Consent order, however

Respondent did not deny the essential narrative. *Id.* at 27-28. The presenter of evidence noted the introduction of the 2018 Consent Order contains the phrase "it is hereby agreed". *Id.* at 28-29. Regarding precedent, the presenter of evidence urged the panel to consider that while the facts presented in this matter are distinguishable from those Respondent cited, they are not deserving of less sanction, in fact the situation is "much worse." *Id.* at 30.

The Commission is required to "administer and enforce the provisions" of the Maryland Real Estate Brokers Act (the "Brokers Act"). BOP § 17-209. Included in the provisions the Commission shall enforce is BOP § 17-322(b)(25) which provides that:

the Commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee ... engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings

In this matter the ALJ has recommended the Commission find that the allegations in the Consent Orders substantiate untrustworthiness to such an extent that the Respondent's license be revoked. The Commission agrees with the ALJ.

Regarding the 2006 Consent Order, the Commission is not proceeding with revocation because of the lack of disclosure. Rather once made aware of the 2006 Consent Order, Respondent's violation of it, and the resulting 2018 Consent Order and other allegations contained therein, the Commission believed the facts the consent orders were based upon rose to a level sufficient to charge a violation of the Brokers Act. Indeed, the Commission is satisfied that the necessary burden to establish that violation has been met.

Respondent correctly states that on applications for initial or renewed applications the Commission does not ask about enforcement by other state agencies. However, Respondent failed to provide any support for the argument that not asking the question on an application

means the Commission is barred from considering actions by other agencies. Respondent's argument that even if the orders are relevant she did not agree to the allegations against her is, as summarized by the ALJ, contradicted by the language therein and her testimony at the ALJ Hearing. Recommended Decision 10. While the Commission appreciates Respondent's regrets and has sympathy for her claim that misplaced trust in her former spouse was to blame, she did in fact fail to "deny the essential narrative" of the allegations against her. *Id.*

Finally, the Commission agrees with Respondent that the cases cited in her written exceptions are distinguishable from the facts here. That however does not persuade the Commission that revocation is inappropriate. The agreed upon facts that led to the 2006 and 2018 Consent Orders are alarming: registration violations, making untrue statements of material fact, omitting material facts, fraud or deceit on investors by recommending unsuitable investments to clients, failing to provide proper disclosures to clients, and engaging in dishonest and unethical business practices. FF 13-14. Respondent insists that even if true, her prior work in securities was not at all related to real estate. The Commission disagrees. The Brokers Act requires a license to sell real estate, includes provisions on material facts, prohibits fraud and dishonesty, and requires a number of disclosures. *See* BOP §§ 17-301, 322, 532 & Code of Maryland Regulation 09.11.01. Much like a member of the public relies on a MSC registrant for advice when investing in securities, a member of the public relies on licensed real estate agents when investing in real estate. The Commission believes Respondent's inability to comply with those requirements when advising clients as to securities evidences "untrustworthiness" and means she failed to comply with the Brokers Act. BOP § 17-322(b)(25).

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, the Commission concludes as a matter of law that Respondent violated BOP § 17-322(b)(25) and revocation of her license is the appropriate sanction.

## ORDER

The Exceptions of the Respondent, Jennie D. Morley, having been considered, it is this \_\_\_ day of March, 2021 by the Maryland Real Estate Commission, hereby ORDERED:

1. That any and all real estate licenses issued by the Maryland Real Estate Commission held by Jennie D. Morley are REVOKED; and

4. That the records and publications of the Maryland Real Estate Commission reflect this decision.

MARYLAND REAL ESTATE COMMISSION

By: \_\_\_\_\_

SIGNATURE FILE

Note: A judicial review of this Final Order may be sought in the Circuit Court for the Maryland County in which the Appellant resides or has his/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.