

THE MARYLAND REAL ESTATE COMMISSION **FINAL ORDER**

THE CLAIM OF \* BEFORE DOUGLAS E. KOTEEN, JUN 13 2011  
DENISE AND JAMES WALLEY \* ADMINISTRATIVE LAW JUDGE MARYLAND REAL  
AGAINST THE MARYLAND REAL \* OF THE MARYLAND OFFICE OF ESTATE COMMISSION  
ESTATE COMMISSION GUARANTY \* ADMINISTRATIVE HEARINGS  
FUND FOR THE ALLEGED \* OAH No: DLR-REC-22-10-17338  
MISCONDUCT OF \* MREC No. 2010-RE-271 G.F.  
PAUL S. METTEE  
\* \* \* \* \*

PROPOSED ORDER

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated March 4, 2011, having been received, read and considered, it is, by the Maryland Real Estate Commission, this 20th day of April, 2011,

ORDERED,

- A. That the Findings of Fact in the Recommended Decision be, and hereby are, AFFIRMED;
- B. That the Conclusions of Law in the Recommended Decision be, and hereby are, APPROVED;
- C. That the Recommended Order in the Recommended Decision be, and hereby is, ADOPTED;

and,

- D. That the records, files and documents of the Maryland State Real Estate Commission reflect this decision.

MARYLAND STATE REAL ESTATE COMMISSION

**SIGNATURE ON FILE**

4/20/2011  
Date

By: Marla S. Johnson  
Marla S. Johnson, Commissioner

FILE C

IN THE MATTER OF THE CLAIM OF:	* BEFORE DOUGLAS E. KOTEEN,
DENISE AND JAMES WALLEY,	* AN ADMINISTRATIVE LAW JUDGE
AGAINST THE MARYLAND REAL	* OF THE MARYLAND OFFICE
ESTATE GUARANTY FUND,	* OF ADMINISTRATIVE HEARINGS
FOR THE ALLEGED MISCONDUCT	* OAH No. DLR-REC-22-10-17338
OF PAUL S. METTEE	* REC No. 10-RE-271GF

\* \* \* \* \*

**RECOMMENDED DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On December 23, 2009 Denise and James Walley (Claimants) filed a claim with the Maryland Real Estate Guaranty Fund (Fund), established by the Maryland Real Estate Commission (REC), for reimbursement for actual losses in the amount of \$3,155.00, suffered as a result of the alleged misconduct by Paul S. Mettee (Respondent), a licensed real estate salesperson. On April 30, 2010, the REC transmitted the case to the Office of Administrative Hearings (OAH) for a contested case hearing.

On January 12, 2011, I conducted a hearing at the OAH in Hunt Valley, Maryland. Md. Code Ann., Bus. Occ. & Prof. § 17-407(c)(2)(ii) (2010). Claimant James Walley was present and represented himself. Claimant Denise Walley was not present. Hope Sachs, Assistant Attorney General, represented the Fund. The Respondent failed to appear at the hearing.

The contested case provisions of the Administrative Procedure Act, the procedures for Administrative Hearings of the Department of Labor, Licensing and Regulation (DLLR), and the Rules of Procedure of the OAH govern the procedure. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2010); COMAR 09.01.03; 09.11.03; and 28.02.01.

### ISSUES

1. Did the Claimants sustain an actual loss compensable by the Fund?
2. If so, what is the amount of that loss?

### SUMMARY OF THE EVIDENCE

#### Exhibits

I admitted the following documents into evidence on behalf of the Claimants:

- CL Ex. 1. Exclusive Right to Lease Brokerage Agreement, dated April 30, 2008;
- CL Ex. 2. Re/Max American Dream, Property Management Division, Management Agreement, dated April 29, 2008;
- CL Ex. 3. Aberdeen Proving Ground Federal Credit Union Check Inquiries, dated March 2, 2009; and April 1, 2009; and
- CL Ex. 4. Copy of four checks from Clifton E. Bright, Sr. and Rosezillia Bright to Respondent: Check No. 1137, dated April 28, 2009; Check No. 1130, dated June 29, 2009; Check No. 2006, dated July 31, 2009; and Check No. 2008, dated August 29, 2009.

I admitted the following documents into evidence on behalf of the Fund:

- GF Ex. 1. Notice of Hearing, dated October 13, 2010 for January 12, 2011 hearing, with attached certified mail receipts and Domestic Return Receipts (green cards);
- GF Ex. 2. Memorandum from OAH to Legal Services, dated August 2, 2010; with attached Notice of Hearing, dated July 7, 2010 for October 7, 2010 hearing; REC Order for Hearing, dated April 28, 2010; Procedural inserts; and Original envelope and copy, postmarked July 7, 2010;
- GF Ex. 3. Affidavit of Steven Long, dated August 9, 2010; with attached Email and MVA Record, dated August 6, 2010;
- GF Ex. 4. REC Professional License History, dated September 29, 2010;
- GF Ex. 5. REC Complaint and Guaranty Fund Claim, received December 23, 2009; and
- GF Ex. 6. REC Report of Investigation, dated March 2, 2010; with sixteen attached exhibits.

As the Respondent was not present, he offered no exhibits.

Testimony

Claimant James Walley testified on behalf of the Claimants. The Fund did not present testimony. As the Respondent was not present, he offered no testimony.

**FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. At all times relevant to this matter, the Respondent was a licensed real estate salesperson.

The Respondent's license expired on March 10, 2010. (GF Ex. 4).

2. On or about April 29, 2008, the Claimants and the Respondent, a salesperson on behalf of the real estate broker, Re/Max American Dream (Broker), entered into an agreement (Management Agreement) to manage and lease the Claimants' property located at 1521 St. Christopher Court, in Edgewood, Maryland (Property). (CL Ex. 2).

3. Under the Management Agreement, the Broker agreed to advertise the Claimants' property for rent, show the property to prospective tenants, obtain lease agreements, enforce lease provisions and collect rent from tenants, recommend to the Claimants a schedule of rents and fees for tenants, handle and resolve tenant complaints, arrange for repairs and maintenance, and other duties related to property management and leasing. (CL Ex. 2).

4. The Management Agreement also required the Broker to perform, in pertinent part, the following tasks:

Broker shall deposit all monies received in connection with the Premises in one or more federally insured accounts in the name of the Broker.... On a monthly basis, Broker shall deliver to Owner, at Owner's address, reports of receipts, expenses, and charges in connection with the Premises, and remit to Owner, at the Payment address, all receipts less disbursements and reserves authorized by this Agreement....

(CL Ex. 2). The Management Agreement also permitted the Broker to charge a leasing fee of the first month's rent, a renewal fee of \$150.00, and a management fee of 10%, plus a \$15.00 accounting fee. (CL Ex. 2).

5. The Claimants and the Broker also entered into an Exclusive Right to Lease Brokerage Agreement (Lease Agreement) on April 30, 2008. The Respondent was identified as a Sales Associate and Designated Representative of the Broker in the Lease Agreement. Under the terms of the Lease Agreement, the Broker agreed to list the Claimants' property for lease, to seek a tenant, and to market the property for rent at \$1,300.00 per month. (CL Ex. 1).

6. Pursuant to these agreements, the Respondent placed a "for rent" sign on the Claimants' Property and screened prospective tenants. The Respondent subsequently secured a husband and wife tenant (Clifton E. Bright, Sr., and Rosezillia Bright) (Tenants) for the Property. On May 21, 2008, the Tenants signed a lease agreement (Rental Agreement) with the Broker, executed by the Respondent as an agent for the Broker. The Tenants agreed to pay \$1,300.00 per month in rent for the Property. (GF Ex. 6, Attach. 3).

7. The Tenants paid a security deposit of \$1,300.00 to the Respondent and an additional \$150.00 for the right to keep a pet at the Property, for a total of \$1,450.00.

8. After the Rental Agreement was signed in May 2008, the Tenants began making monthly rent payments each month to the Respondent in the amount of \$1,300.00. After retaining the \$130.00 monthly management fee, the Respondent deposited \$1,170.00 each month into James Walley's bank account. The Respondent did not withhold a \$15.00 accounting fee from any of the rent payments he forwarded to the Claimants. (GF Ex. 6, Attach. 1, 13).

9. After the Tenants began making timely rent payments, the Respondent told the Claimants that the Broker was changing its property management practices with regard to the retention of rent payments. The Respondent advised further that the Broker would retain the Tenants' rent payments for twenty-one days before releasing the funds to the Claimants. When the Claimants became concerned about this arrangement, the Respondent told them that he

would begin releasing the rent money to the Claimants within five days of receiving it after he obtained his broker's license.

10. When the Claimants asked the Respondent to provide contact information for the Tenants, he refused to provide that information. As a result, the Claimants had no direct contact with the Tenants.

11. During the months of October 2008, January 2009, and April 2009, the Respondent failed to transmit the Tenants' rent payments to the Claimants. The Respondent told the Claimants that the nonpayment occurred because the Tenants were experiencing financial problems.

12. During the months of May, June, August, and September 2009, the Respondent provided the Claimants with a total of \$1,100.00 in additional funds beyond the regular rent payments. The Respondent told the Claimants that these additional funds reflected payments by the Tenants to catch up on money they owed from prior months when they were unable to make their regular rent payments. The Respondent made these additional payments as follows:

May 2009	\$ 100.00
June 2009	\$ 500.00
August 2009	\$ 250.00
September 2009	\$ 250.00
February 2010	<u>\$1,195.00</u>
<b>Total</b>	<b>\$2,295.00.</b>

13. The Claimants did not receive a timely rent payment from the Respondent in October 2009. When the Claimants contacted the Respondent regarding this missing payment, he advised that he had not received the Tenants' October 2009 rent payment and would contact them to inquire about their financial situation.

14. Skeptical about the Respondent's explanation, the Claimants contacted the Tenants directly, by locating the Tenants' contact information on their own. When the Claimants spoke with them in late October 2009, the Tenants advised that they had never missed a rent

payment, but acknowledged that they had been short \$300.00 on one payment. They also told the Claimants that they had always paid exactly \$1,300.00 for each monthly rent payment, except for one month, and had not made any additional payments. The Tenants offered to provide the Claimants with written documentation to prove their contention.

15. The Claimants said nothing to the Respondent while they were awaiting the Tenants' written proof. However, the Tenants contacted the Respondent directly about their concerns. Over the next several weeks, the Respondent offered the Claimants several inconsistent explanations for why the Claimants had not received the three missing rent payments. The Respondent's varying explanations were false.

16. The Tenants subsequently provided the Claimants with copies of canceled checks and credit union statements to demonstrate that they had made regular payments to the Respondent for the full amount of the rent, and that the Respondent had cashed those checks. (CL Ex. 3, 4; GF Ex. 5, 6).

17. On November 21, 2009, the Respondent provided the Claimants with \$1,170.00 for the Tenants' October 2009 rent payment. The Respondent also provided the Claimants with two other payments in November 2009 covering the Tenants' November 2009 rent payment. (GF Ex. 6, Attach. 13).

18. Meanwhile, the Claimants contacted the Broker in November 2009 to notify that office of the problems they were experiencing with the Respondent concerning their Management Agreement. Cathy Werner, a licensed broker with Re/Max American Dream, told the Claimants that Re/Max had no record that the Broker or the Respondent was providing leasing or property management services for the Claimants' Property.

19. The Tenants made no further rent payments after November 2009 and vacated the Property in or about January 2010 because of the problems caused by the Respondent's failure to properly remit their rent payments to the Claimants.

20. The Respondent made an additional payment to the Claimants in February 2010 of \$1,195.00. The Respondent made no further payments to the Claimants for the outstanding balance of unpaid rent or for the unpaid security deposit. (GF Ex. 5, 6).

21. The Respondent failed to remit to the Claimants \$3,510.00 in rent money that he obtained from the Tenants for the months of October 2008, January 2009, and April 2009, after deducting the \$130.00 monthly management fee, and improperly converted that money to his own use. The Respondent also failed to remit to the Claimants the \$1,450.00 security deposit that the Tenants paid to the Respondent. The Claimants were entitled to the full amount of the security deposit as compensation for unpaid rent and for repairs they needed to make to the Property.

22. The Respondent repaid \$2,295.00 to the Claimants over the period of May 2009 through February 2010.

23. The Claimants' actual loss as a result of the Respondent's acts and omissions while providing real estate brokerage services in Maryland is \$2,665.00.

24. On October 13, 2010, the OAH sent notices of hearing to the Respondent by regular and certified U.S. mail to his last known address of record in Bel Air, Maryland. The Domestic Return Receipt (Green Card) sent to the Respondent was signed and returned to the OAH on October 18, 2010. (GF Ex. 1).

25. The Respondent failed to appear for the scheduled hearing at the OAH in Hunt Valley, Maryland on January 12, 2011.



## DISCUSSION

### Notice

The record reflects that the Fund met the notification requirements for the hearing when it sent hearing notices to the Respondent at his last known address of record, and the Green Card was returned to the OAH reflecting his receipt of notice for the January 12, 2011 hearing. Md. Code Ann., State Gov't § 10-208 (2009); Md. Code Ann., Bus Occ. & Prof. § 17-408 (c) (2010). Accordingly, I ordered that the hearing proceed in the Respondent's absence.

### Legal Framework

A person may recover compensation from the Fund for an actual loss based on an act or omission that occurs in the provision of real estate brokerage services by a licensed real estate broker or licensed real estate salesperson that involves a transaction related to real estate located in the State. Md. Code Ann., Bus. Occ. & Prof. § 17-404(a)(2)(i), (ii) (2010). For misconduct to be compensable, the act or omission must constitute either theft, embezzlement, false pretenses, forgery, fraud or misrepresentation. Md. Code Ann., Bus. Occ. & Prof. §§ 17-404(a)(2)(iii), 17-402(c) (2010); COMAR 09.11.03.04. At a hearing concerning a claim against the Fund, the burden of proof shall be on the claimant to establish the validity of the claim. Md. Code Ann., Bus. Occ. & Prof. § 17-407(e) (2010). The REC shall order payment of a claim by the Fund for the actual monetary loss, up to \$25,000, suffered by the claimant. Md. Code Ann., Bus. Occ. & Prof. § 17-410(a), (b) (2010).

Furthermore, COMAR 09.11.01.18 sets forth the parameters of an actual loss as follows:

The amount of compensation recoverable by a claimant from the Real Estate Guaranty Fund, pursuant to Business Occupations and Professions Article, Title 17, Subtitle 4, Real Estate Guaranty Fund, Annotated Code of Maryland, shall be restricted to the actual monetary loss incurred by the claimant, but may not include monetary losses other than the monetary loss from the originating transaction. Actual monetary losses may not include commissions owed to a licensee of this Commission acting in his capacity as either a principal or agent in

a real estate transaction, or any attorney's fees the claimant may incur in pursuing or perfecting the claim against the guaranty fund.

Two categories of acts or omissions may give rise to an actual loss. In the first, money or property is obtained by a licensee by theft, embezzlement, false pretenses or forgery. Md. Code Ann., Bus. Occ. & Prof. § 17-404(a)(iii)(1). The second category involves a licensee's act or omission that constitutes fraud or misrepresentation. Md. Code Ann., Bus. Occ. & Prof. § 17-404(a)(iii)(2); COMAR 09.11.03.04B(1).

The statute includes the following relevant definitions at section 17-101 of the Business Occupations and Professions Article:

(a) *In general.*- In this title the following words have the meanings indicated.

...

(i) *Licensed real estate broker.*- "Licensed real estate broker" means, unless the context requires otherwise, a real estate broker who is licensed by the Commission to provide real estate brokerage services.

(j) *Licensed real estate salesperson.*- "Licensed real estate salesperson" means, unless the context requires otherwise, a real estate salesperson who is licensed by the Commission to provide real estate brokerage services on behalf of a licensed real estate broker with whom the real estate salesperson is affiliated.

...

(l) *Provide real estate brokerage services.*- "Provide real estate brokerage services" means to engage in any of the following activities:

(1) for consideration, providing any of the following services for another person:

- (i) selling, buying, exchanging, or leasing any real estate; or
- (ii) collecting rent for the use of any real estate;

(2) for consideration, assisting another person to locate or obtain for purchase or lease any residential real estate;

(3) engaging regularly in a business of dealing in real estate or leases or options on real estate;

...

(6) for consideration, serving as a consultant regarding any activity set forth in items (1) through (5) of this subsection.

(m) *Real estate.*-

(1) "Real estate" means any interest in real property that is located in this State or elsewhere.

...

Md. Code Ann., Bus. Occ. & Prof. § 17-101 (2010).

## Analysis

The essential facts in this proceeding are not in dispute. The Claimants executed property management and leasing agreements with the Broker, with the Respondent acting as the Broker's agent, to lease and manage the Claimants' Property. The Respondent secured a husband and wife tenant for the Claimants' Property and also entered a lease agreement with the Tenants to collect rent and promptly remit the rental funds to the Claimants. (CL Ex. 1, 2; GF Ex. 6, Att. 2, 3, 14).

The evidence established that in three separate months, October 2008, January 2009, and April 2009, the Respondent collected \$1,300.00 in rent payments from the Tenants, but failed to remit \$1,170.00 to the Claimants in each of those months, as required by the Management Agreement. The Respondent improperly retained the rental funds for his own use. When the Respondent made subsequent payments to the Claimants to reimburse some of the outstanding rental funds that he stole, he lied to the Claimants regarding the reason and source of these additional payments so as to cover-up his misconduct. Although the Respondent paid back some of the funds that he stole, he failed to pay back all of the outstanding rental payments and security deposit. The Respondent also failed to provide the Claimants with the Tenants' contact information so that he could pursue his misconduct.

After the Claimants communicated with the Tenants in October 2009 and began to uncover the extent of the Respondent's misconduct, the Respondent lied repeatedly to the Claimants to further cover up his wrongdoing. The Respondent also withheld information and documents from the Broker for whom he worked so that he could retain the rent money without the Broker's knowledge. In addition, the Respondent's misconduct led the Tenants to prematurely terminate their lease with the Claimants and withhold some rent payments due to their concern that their timely rent payments were not properly forwarded to the Claimants.

Claimant James Walley testified and submitted several relevant documents. The Fund also submitted numerous documents to support its position. The Respondent failed to appear at the hearing after receiving proper notice. Therefore, the Respondent failed to dispute any of the evidence presented at the hearing, including the detailed findings of REC Investigator, Steven Long, which were set forth in his Report of Investigation and attachments, which were submitted by the Fund. (GF Ex. 6).

The evidence established that the acts and omissions of the Respondent occurred in the provision of real estate brokerage services by a licensed real estate salesperson. The Respondent was licensed through March 10, 2010 as a real estate salesperson and his misconduct in this proceeding occurred during the period from April 2008 through February 2010. The testimony of Claimant James Walley, and the Management , Lease, and Rental Agreements that the Respondent executed as an agent for the Broker, demonstrate that the Respondent, for consideration, for another person, leased real estate, collected rent for the use of real estate, and engaged regularly in a business of dealing in real estate or leases on real estate. Moreover, the Claimants' leased Property was located in Maryland. The evidence is clear that the Respondent was providing real estate brokerage services consistent within the statutory definition when he engaged in the acts and omissions that are at issue in this proceeding. Md. Code Ann., Bus. Occ. & Prof. § 17-101(l) (2010).

Furthermore, it is clear that the Claimants' actions constituted theft when he collected rent from the Tenants, used those funds for his own purposes, failed to remit the rent money to the Claimants, lied repeatedly to the Claimants to cover up his wrongdoing, and withheld information from the Broker to further his deceptive scheme. Moreover, the Respondent's misconduct caused the Tenants to terminate their lease and vacate the premises prematurely, resulting in further adverse financial impact for the Claimants. The REC investigation, including interviews with

Claimant Denise Walley, Broker Cathy Werner, and the Respondent, which were detailed in the Investigation Report and attachments, established that the Respondent admitted that he retained the missing rental funds, used them for his own purposes, lied to the Claimants, and withheld information from the Broker to cover up his theft. (GF Ex. 6). Although the Respondent claimed during the investigation that his health problems and other financial difficulties contributed to his actions, this does not excuse his misconduct undertaken as a licensed real estate salesperson, which constituted theft.

Accordingly, I conclude that the Respondent, a licensed real estate salesperson, engaged in acts and omissions that occurred in the provision of real estate brokerage services involving real estate located in Maryland, in which money was obtained from the Claimants by theft. Md. Code Ann., Bus. Occ. & Prof. § 17-404 (a)(2)(i), (ii), (iii).

#### Amount of Actual Loss

The statute permits a claimant to recover compensation from the Fund for an actual loss up to a maximum of \$25,000.00. Md. Code Ann., Bus. Occ. & Prof. § 17-404(a), (b). The statute further provides that the REC may order payment by the Fund “only for the actual monetary loss suffered by the claimant....” Md. Code Ann., Bus. Occ. & Prof. § 17-410(b)(1). The regulations also provide that the compensation recoverable from the Fund is “restricted to the actual monetary loss incurred by the claimant,” is limited to “the monetary loss from the originating transaction,” and “may not include commissions owed to a licensee ... acting in his capacity as a principal or agent in a real estate transaction....” COMAR 09.11.01.18. In this case, the Claimants seek to recover \$3,155.00.

The Claimants seek to recover \$1,300.00 for each of the three months in which the Respondent failed to remit the rent payments, as well as the security deposit of \$1,450.00, reduced by the partial repayments made by the Respondent over time to address the outstanding balance of

unpaid rent. Although the Claimants seek \$1,300.00 for each of the three rent payments that were not remitted, I find that the Claimants are entitled to only \$1,170.00 for each of the three months in which he failed to remit the rent payments to the Claimants. The Management Agreement provides that the Broker had the right to charge a 10% management fee and a \$15.00 accounting fee. (CL Ex. 2). The documentary evidence established that the Respondent retained the \$130.00 management fee and remitted \$1,170.00 to the Claimants each month by depositing that amount into Claimant James Walley's bank account, in those months in which the Respondent properly remitted the rent payments. (GF Ex. 6, Attach. 1, 13). The evidence did not demonstrate that the Respondent ever withheld a \$15.00 accounting fee.

The statute and regulations provide clearly that a claimant is only entitled to the actual monetary loss that he or she suffers. In this case, the Claimants were only paid \$1,170.00 each month after the management fee was deducted from the rent payment. This proceeding does not involve a contract action in which the Claimants also seek to recover the management fee based on the Respondent's failure to fulfill the terms of a property management agreement. Rather, the statute and regulations clearly limit the Claimants' recovery to the actual monetary loss that they suffered. Therefore, I find that the Claimants are only entitled to recover \$1,170.00 for each of the three months in which the Respondent failed to remit the rent payments, for a total of \$3,510.00 for those months.<sup>1</sup>

The Claimants also seek to recover the full amount of the \$1,450.00 security deposit that the Tenants paid. The Rental Agreement that the Tenants signed provides that the security deposit was to indemnify the Claimants against damage to the Property and for monies not paid by the Tenants, among other items. (GF Ex. 6, Attach. 3). The undisputed evidence in this

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<sup>1</sup> The regulations at COMAR 09.11.01.18 also provide that an actual loss does not include a commission that is owed to a licensee. However, I do not find that the management fee in the Management Agreement in this case is a commission. In any event, the Claimants are not entitled to the \$130.00 monthly management fee for the reasons addressed above because it is not part of the Claimants' actual monetary loss.

record established that the Claimants had to make repairs for damage to the Property and that the Tenants vacated the Property without making all of their rent payments. Accordingly, I conclude that the Claimants are entitled to be reimbursed for the full amount of the security deposit.

Although the Rental Agreement set the amount of the security deposit at \$1,300.00, the evidence was undisputed that the Tenants paid an additional deposit of \$150.00 for the right to keep a pet at the Property. The REC investigation established that the Claimants agreed to this arrangement. (GF Ex. 6). The Rental Agreement provides that pets were prohibited unless prior approval was obtained. (GF Ex. 6, Attach. 3). Therefore, I conclude that the Claimants are entitled to reimbursement in the amount of \$1,450.00 for the security deposit.

The evidence established that the Respondent made additional payments in the amount of \$1,100.00 during the months of May, June, August, and September 2009, and a final payment of \$1,195.00 to the Claimants in February 2010. Therefore, the Claimants' reimbursement from the Fund must be reduced by these payments made by the Respondent, totaling \$2,295.00.

I conclude that the Claimants' actual loss is \$2,665.00, which is calculated as follows:

Rent payments not remitted to Claimants:	\$3,510.00 (\$1,170.00 x 3)
Security deposit not remitted to Claimants:	+ <u>\$1,450.00</u>
Interim Total:	\$4,960.00
Monies repaid by Respondent:	- <u>\$2,295.00</u>
<b>Actual Loss:</b>	<b>\$2,665.00.</b>

Accordingly, the Claimants are entitled to reimbursement from the Fund in the amount of \$2,665.00.

**CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Facts and Discussion, I conclude that the Claimants are entitled to reimbursement from the Real Estate Guaranty Fund in the amount of \$2,665.00 for actual losses resulting from the Respondent's theft. Md. Code Ann., Bus. Occ. & Prof. §§ 17-404(a)(2)(iii)(1), 17-410(b)(1) (2010); COMAR 09.11.01.18; 09.11.03.04.

**RECOMMENDED ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, I hereby

**RECOMMEND** that the Maryland Real Estate Commission:

**ORDER** that the Claimant's claim against the Maryland Real Estate Guaranty Fund be  
**ACCEPTED** in the amount of \$2,665.00; and that it further,

**ORDER** that the records and publications of the Maryland Real Estate Commission  
reflect its final decision.

**SIGNATURE ON FILE**

March 4, 2011  
Date Decision Mailed

Douglas E. Koteen  
Administrative Law Judge

DEK/ch  
# 120483

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DISMISSAL  
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