

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE
COMMISSION

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CASE NO. 2019-RE-430

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V.

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MARK D. SMITH
RE/MAX TOWN CENTER
12505 PARK POTOMAC AVE, #220
POTOMAC, MARYLAND 20854
LIC. REG. NO. 05-574338
RESPONDENT

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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 originally filed by Nicholas Joy (“Complainant”). Based on the complaint and the response thereto received from Respondent Real Estate Salesperson Mark Smith, license registration number 05-574338, a Commission Panel determined it appropriate to bring administrative charges against the Respondent. Before the Commission issued a Statement of Charges and Order for Hearing against the Respondent, the Commission and the Respondent agreed to enter into this Consent Order and Settlement Agreement, which provides for the imposition of disciplinary measures which are fair and equitable under these circumstances and are consistent with the best interests of the people of the State of Maryland, to resolve the complaint. The Commission and the Respondent agree and stipulate as follows:

1. 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 Respondent is licensed as a real estate salesperson, license registration number 05-574338, and is currently affiliated with real estate broker Re/Max Town Center.
3. On July 7, 2018, the Respondent had an appointment to accompany his client (buyer) and a home inspector for an inspection to take place at a property owned by the complainant. As the Respondent was running late, he gave the lockbox code and an alarm code to the house to the home inspector.
4. The Respondent’s client (buyer), obtained the codes at that time and used it at a later time to enter the property without any authorization or knowledge of the parties.
5. The Respondent admits to giving the sentrilock and alarm code to an individual not authorized to have it. It was the contract purchaser who obtained the codes and improperly used them to gain entry into the home.

6. The Respondent admits that by his acts and omissions described above he has violated Business and Occupations Article, Annotated Code of Maryland ("BOP") §17-322(b)(25), which provide:

§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:

* * *

(25) engages in conduct that demonstrates bad faith, incompetency, or untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings.

* * *

7. The Respondent consents to the entry of an Order by the Commission that he has violated BOP §§17-322(b) (25).


8. The Respondent agrees he is required to abide by the Maryland Real Estate Broker's Act, Md. Code Ann., Bus. Occ. & Prof. Art., §17-101 et. seq. and the Commission's regulations in all real estate transactions.

9. The Respondent agrees to a reprimand on his license and a civil penalty in the amount of \$750.00.

10. By entering into the Consent Order and Settlement Agreement, the Respondent expressly waives the right to the issuance of a Statement of Charges and Order for Hearing by the Commission, an administrative hearing on the charges before the Commission or the Office of Administrative Hearings ("OAH"), the making of Findings of Fact and Conclusions of Law by the Commission or an Administrative Law Judge of the OAH, any and all further proceedings before the Commission, and any rights to petition for judicial review of this Consent Order and Settlement Agreement.

11. The Respondent enters into this Consent Order and Settlement Agreement voluntarily, knowingly, and willingly, after having the opportunity to consult with private counsel of his own choosing at his own expense.

12. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of Case No. 2019-RE-430.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 9th
DAY OF MAY, 2019 **BY THE MARYLAND REAL ESTATE**
COMMISSION: 

ORDERED that the Respondent's has violated BOP §§17-322(b) (25); and it is further,

ORDERED that the Respondent's has violated BOP §§17-322(b) (25); and it is further,

ORDERED that the Respondent agrees to a reprimand on his real estate license and it is further

ORDERED that the Respondent agrees to pay the civil penalty of \$750.00 within thirty (30) days of above date and it is further

ORDERED that the Respondent agrees that his Real Estate license will be suspended if the civil penalty is not paid within thirty (30) days and it is further

ORDERED that the Commission's records and publications shall reflect the terms of this Consent Order and Settlement Agreement.

MARYLAND REAL ESTATE COMMISSION:

SIGNATURE ON FILE

By: _____
Michael L. Kasnic, Executive Director

AGREED:

SIGNATURE ON FILE

Mark D. Smith
Respondent

4/30/2019

Date