

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE
COMMISSION**

V.

WILLIAM (TONY) MCCONKEY

AND

**CLAIM OF ANGELA POWELL
AGAINST THE MARYLAND REAL
ESTATE COMMISSION GUARANTY
FUND**

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OAH No.: DLR-REC-24-10-12270

AGENCY No.: 08-RE-641

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CONSENT ORDER

This matter comes before the Maryland Real Estate Commission ("Commission") as the result of a complaint and Guaranty Fund claim filed by Angela Powell ("Ms. Powell") against William A. "Tony" McConkey, the Respondent real estate salesperson, license registration number 05-34698 ("Respondent").

Based on the complaint and Guaranty Fund claim, the Commission conducted an investigation. Following the investigation, the Commission issued a Statement of Charges and Order for Hearing dated January 13, 2010 in which the Commission alleged that the Respondent had violated provisions of the Maryland Real Estate Broker's Act, Bus. Occ. & Prof. Art., Title 17 ("BOP") as well as provisions of the Commission's Code of Ethics, Code of Maryland Regulations 09.11.02 and in which the Commission determined that Ms. Powell was entitled to a hearing on her claim against the Commission's Guaranty Fund.

The Commission transmitted this matter to the Office of Administrative Hearings. This matter was consolidated for hearing with *Commission v. McConkey/Claim of Lauri Donovan*, OAH Case No. DLR-REC-24-10-04921, Agency Case No. 08-RE-852 and *Commission v. McConkey/Claim of Milligan*, OAH Case No. DLR-REC-24-10-04919, Agency Case No. 07-RE-278 and a hearing on the regulatory charges and the Guaranty Fund claims in all three cases was scheduled by OAH for October 25-29, 2010 at the OAH in Hunt Valley, Maryland before Administrative Law Judge D. Harrison Pratt.

On October 25, 2010, prior to the beginning of the hearing, the Commission and the Respondent reached an agreement to resolve the regulatory charges in this matter. The agreement was placed on the record before Administrative Law Judge D. Harrison Pratt. This Consent Order memorializes the agreement which provides for the imposition of disciplinary measures which are fair and equitable in these circumstances and which are consistent with the best interest of the people of the State of Maryland.

The Commission and the Respondent agree and stipulate as follows:

1. Respondent William A. "Tony" McConkey is currently licensed by the Commission as a real estate salesperson affiliated with Re/Max Supreme Properties, license registration number 05-34698. The license expires on July 19, 2012. At the time of the transaction at issue, the Respondent was licensed by the Commission as a real estate salesperson affiliated with broker Re/Max Executive. At all times relevant to the matters set forth in this Consent Order, the Commission has had jurisdiction over the subject matter and the Respondent.
2. The Respondent had a practice whereby he would contact real property owners who were on the verge of having their property foreclosed upon and offer to help them save the property from foreclosure.
3. Ms. Powell was the co-owner of 241 Hammonds Lane, Baltimore, Maryland 21225. In 2007, Ms. Powell was on the verge of having her property foreclosed upon.
4. In December 2007, Ms. Powell contacted the Respondent after seeing a television commercial featuring the Respondent who identified himself as a licensed real estate agent affiliated with Re/Max Executive who could help save homeowners from having their homes go to foreclosure.
5. The Respondent admits that by his acts and omissions related to 241 Hammonds Lane, Baltimore, Maryland 21225, the Respondent knowingly and willfully violated the Protection of Homeowners in Foreclosure Act (PHIFA), Md. Code Ann., Real Property Art., Title 7, subtitle 3.
6. The Respondent consents to the entry of an Order by the Commission that by knowingly and willfully violating PHIFA he has violated BOP §17-322(b)(25) by engaging in conduct that demonstrates incompetency and improper dealings.
7. Based on his violation of BOP §17-322(b)(25) the Respondent consents to the entry of an Order by the Commission suspending any and all real estate licenses issued to him by the Commission for a period of one (1) year commencing on the date the Commission executes this Consent Order. The Respondent understands and agrees that at the conclusion of the one (1) year suspension period his license will not be automatically reinstated. To have his license reinstated, the Respondent will be required to apply for the reinstatement of his license and to appear at an application hearing before the Commission or its' designee. The burden of proof at the application hearing will be on the Respondent to show why his license should be reinstated. There is no guarantee that the Commission or its' designee will reinstate the Respondent's real estate license following the application hearing.
8. The Respondent further agrees that he will not oppose Ms. Powell's claim against the Guaranty Fund.
9. The Respondent expressly waives his right to an administrative hearing on the charges and to participate in the hearing on Ms. Powell's Guaranty Fund claim.

10. The Respondent expressly waives his right to any and all further proceedings before the Commission to which the Respondent may have been entitled in this matter.

11. The Respondent expressly waives his right to appeal from this Consent Order and to appeal from any future Order issued by the Commission awarding to Ms. Powell money from the Commission's Guaranty Fund.

BASED ON THESE AGREEMENTS AND STIPULATIONS THAT WERE PLACED ON THE RECORD ON OCTOBER 25, 2010 BEFORE ADMINISTRATIVE LAW JUDGE D. HARRISON PRATT AT THE OFFICE OF ADMINISTRATIVE HEARINGS, HUNT VALLEY, MARYLAND, IT IS THIS 12th DAY OF November, 2010 BY THE MARYLAND REAL ESTATE COMMISSION:

ORDERED that Respondent William A. "Tony" McConkey, a licensed real estate salesperson, license registration number 05-34698 did knowingly and willfully violate the Protection of Homeowners in Foreclosure Act, Md. Code Ann., Real Property Art., Title 7, Subtitle 3; and it is further

ORDERED that by knowingly and willfully violating the Protection of Homeowners in Foreclosure Act, Md. Code Ann., Real Property Art., Title 7, Subtitle 3, the Respondent engaged in conduct constituting incompetency and improper dealings in violation of BOP §17-322(b)(25); and it is further

ORDERED that as penalty for his violation of BOP §17-322(b)(25) any and all real estate licenses issued to the Respondent by the Maryland Real Estate Commission are **SUSPENDED** for a period of one (1) year commencing on the date of this Order; and it is further

ORDERED that at the conclusion of the one (1) year suspension period the Respondent's license will not be automatically reinstated by the Commission. In order to have his license reinstated by the Commission, the Respondent shall be required to apply for the reinstatement of his license and to appear at an application hearing before the Commission or its' designee. The burden of proof at the application hearing will be on the Respondent to show why his license should be reinstated. There is no guarantee that the Commission or its' designee will reinstate the Respondent's license following the application hearing; and it is further

ORDERED that the Respondent has expressly waived his right to an administrative hearing on the regulatory charges and to participate in the hearing on Ms. Powell's Guaranty Fund claim. The Respondent has expressly waived his right to any and all further proceedings before the Commission to which the Respondent may have been entitled in this matter. The Respondent has expressly waived his right to appeal from this Consent Order and to appeal from any future Order issued by the Commission awarding to Ms. Powell money from the Commission's Guaranty Fund; and it is further

ORDERED that the Commission's records and publications reflect the Respondent's violation and penalty imposed.

MARYLAND REAL ESTATE COMMISSION:

11/17/10
Date

By: [Signature]
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[COMMISSIONER'S SIGNATURE
APPEARS ON ORIGINAL ORDER]

RESPONDENT'S SIGNATURE
APPEARS ON ORIGINAL ORDER

William A. "Tony" McConkey
Respondent

RESPONDENT'S SIGNATURE
APPEARS ON ORIGINAL ORDER

Silver Spring, Maryland 20910
Counsel for William A. Tony McConkey