

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE *
COMMISSION**

v. * CASE NO. 241-RE-2022

**COLETTE FISHER FULLARD *
AND *
BERNADETTE COLE, *
EXIT LANDMARK REALTY *
Respondents**

and *

**CLAIM OF SOPHIA SCOTT *
AGAINST THE REAL ESTATE *
COMMISSION GUARANTY FUND ***

*** * * * ***

CONSENT ORDER AND SETTLEMENT AGREEMENT

This matter comes before the Maryland Real Estate Commission (“Commission”) as the result of a complaint and Guaranty Fund claim filed by Sophia Scott (“Complainant”) against Colette Fisher Fullard, a real estate salesperson affiliated with Exit Landmark Realty (“Respondent Fisher Fullard”) and Bernadette Cole, the real estate broker of record for Exit Landmark Realty (“Respondent Cole”) (collectively the “Parties”). Based on the complaint and an investigation, the Commission issued Statements of Charges and Orders for Hearing against the Respondents dated December 13, 2023 (“Charge Letter”) and transmitted this matter to the Office of Administrative Hearings (“OAH”) for a consolidated hearing. By Notices of Hearing dated January 25, 2024, the OAH scheduled the hearing for April 2, 2024. To resolve this matter without a formal hearing, the Parties have agreed to enter into this Consent Order and Settlement Agreement (“Consent Order”) to provide for the imposition of disciplinary measures that are fair, equitable, and consistent with the best interest of the people of the State of Maryland and to resolve the Complainant’s Guaranty Fund claim. The Parties agree and stipulate as follows:

1. At all times relevant to the matters in this Consent Order, the Commission had jurisdiction over the subject matter and the Respondents.

2. At all times relevant to the matters in this Consent Order, the Commission licensed Respondent Fisher Fullard as a real estate salesperson affiliated with Exit Landmark Realty, license registration number 05-680606, and licensed Respondent Cole as the real estate broker of record for Exit Landmark Realty, license registration number 01-615054.

3. On or about August 7, 2021, the Complainant met Respondent Fisher Fullard at Respondent Fisher Fullard’s home to complete an Exclusive Right to Sell Residential Brokerage Agreement and associated documents (“Listing Agreement”) authorizing the Respondents to list

Complainant's property - 8519 Rheims Court, Upper Marlboro, Maryland (the "property") – for sale.

4. During the August 7, 2021 meeting, Respondent Fisher Fullard verbally represented to the Complainant that under the Listing Agreement the Complainant would pay a total commission of only 2.5% of the sales price when the Complainant settled on the sale of the property.

5. Contrary to Respondent Fisher Fullard's representation to the Complainant about the commission, the written Listing Agreement Respondent Fisher Fullard prepared stated that the Seller's agent commission would total 3.5% of the sales price and the "Seller consents to Broker's cooperation and fee sharing with Subagents or Buyer's agent" at 2.5%.

6. Respondent Fisher Fullard failed to have the Complainant sign the Listing Agreement and failed to provide a copy of the Listing Agreement to the Complainant.

7. Following the August 7, 2021 meeting, Respondent Fisher Fullard presented to the Complainant a written contract offer dated August 11, 2021 from a buyer with an offered purchase price of \$380,500 that also included a "General Addendum" stating: "In the event the home doesn't appraise for \$389,500, Buyer is willing to pay \$5000 over appraisal in cash." The written contract offer also included a "Seller Contribution Addendum," which stated: "in addition to any other amount(s) which Seller has agreed to pay under other provisions of the Contract...Seller shall credit Buyer at the time of settlement with the sum of \$10,000...."

8. The Complainant made a counteroffer to credit the buyer \$5000 rather than \$10,000. Based upon representations made by Respondent Fisher Fullard the Complainant understood that the buyer had agreed to the Complainant's counteroffer to credit the buyer \$5000 rather than \$10,000, and on August 13, 2021, the Complainant accepted and ratified the contract of sale.

9. The property appraised for less than \$389,500. The Complainant asked Respondent Fisher Fullard to confirm that the buyer would honor the buyer's offer in the General Addendum to pay \$5000 over the appraised value of the property.

10. At settlement the Complainant paid commissions totaling 6% of the sales price rather than 2.5% of the sales price as Respondent Fisher Fullard had represented at the August 7, 2021 meeting.

11. Following settlement, the Complainant did not receive \$5000 over the appraised value of the property from the buyer that she understood she would receive.

12. Based upon the above-described facts, Respondent Fisher Fullard admits and consents to the entry of an Order by the Commission finding that she violated and is subject to Business Occupations and Professions Article ("BOP"), §17-322(b)(3), (14)(i), (25), and (33) as well as Code of Maryland Regulations ("COMAR") 09.11.02.01H and 09.01.02.02A, 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:

(3) directly or through another person willfully makes a misrepresentation or knowingly makes a false promise;

(14) for any transaction in which the licensee has served as or on behalf of a real estate broker, fails to furnish promptly to each party to the transaction a copy of:

(i) the listing contract to sell or rent real property;

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

(33) violates any regulation adopted under this title or any provision of the code of ethics;

COMAR 09.11.02.01-H

For the protection of all parties with whom he deals, the licensee shall see to it that financial obligations and commitments regarding real estate transactions are in writing, expressing the exact agreement of the parties, and that copies of these agreements are placed in the hands of all parties involved within a reasonable time after the agreements are executed.

COMAR 09.11.02.02-A

In accepting employment as an agent, the licensee shall protect and promote the interests of the client. This obligation of absolute fidelity to the client's interest is primary, but it does not relieve the licensee from his statutory obligations towards the other parties to the transaction.

13. As a penalty for the above-described violations, Respondent Fisher Fullard further consents to the entry of an Order by the Commission imposing a **REPRIMAND** against Respondent Fisher Fullard's license, registration number 05-680606.

14. The Maryland Real Estate Broker's Act and Code of Maryland Regulations mandate that Respondent Cole, as the broker of record for Exit Landmark Realty, exercise reasonable and adequate supervision over the provision of real estate brokerage services by any other individual on behalf of Exit Landmark Realty.

15. Based upon the above-described facts, Respondent Cole admits and consents to the entry of an Order by the Commission finding that she violated, and is subject to, BOP §§17-320(c), 17-322(b) (27) and (33), as well as COMAR 09.11.05.02A, which provide:

§17-320. Contractors or employees providing real estate brokerage services.

(c) *Supervision by real estate broker.* - (1) A real estate broker shall exercise reasonable and adequate supervision over the provision of real estate brokerage services by any other individual, including an independent contractor on behalf of the broker.

(2) The requirement of paragraph (1) of this subsection applies regardless of the manner in which the individual who provides the services is affiliated with the real estate broker on whose behalf the services are provided.

**§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:

(27) violates § 17-320(c) of this subtitle by failing as a real estate broker to exercise reasonable and adequate supervision over the provision of real estate brokerage services by another individual on behalf of the broker;

(33) violates any regulation adopted under this title or any provision of the code of ethics[.]

COMAR 09.11.05.02 A

Requirement of supervision. A broker shall exercise reasonable and adequate supervision over the activities of the broker's salespersons...

16. As a penalty for the above-described violations, Respondent Cole further consents to the entry of an Order by the Commission imposing a **REPRIMAND** against Respondent Cole's license, registration number 01-615054.

17. The Commission agrees to accept this Consent Order and Settlement Agreement as the full and final resolution of the regulatory charges in Case No. 241-RE-2022.

18. To resolve the Complainant's Guaranty Fund claim, the Respondents jointly and severally agree to pay to the Complainant and the Complainant agrees to accept the sum of twenty-four thousand three hundred seventeen dollars and fifty cents (\$24,317.50) payable by certified check, cashier's check, or money order within fourteen days (14) days of the date of this Consent Order.

19. The Complainant agrees that upon her receipt of the full payment of \$24,317.50 from the Respondents, the Commission shall dismiss Complainant's Guaranty Fund claim in this matter with prejudice.

20. The Respondents further agree that should they fail to make payment to the Complainant in the amount of \$24,317.50 within thirty (30) days from the date of this Consent Order, the Respondents' licenses shall be automatically suspended and remain suspended until such time as the payment in full has been made to the Complainant; should the Respondents'

failure to make payment to the Complainant in the amount of \$24,317.50 extend beyond thirty (30) days from the date of this Consent Order, the Complainant may request that the Commission transmit this matter back to the Office of Administrative Hearings for a hearing on the Complainant's Guaranty Fund claim.

21. By entering into the Consent Order and Settlement Agreement, the Respondents expressly waive the right to: (a) an administrative hearing before an Administrative Law Judge ("ALJ") of the Office of Administrative Hearings to defend the charges and the Guaranty Fund claim; (b) the making of Findings of Fact and Conclusions of Law by an ALJ; (c) submit exceptions to this Consent Order and Settlement Agreement before the Commission; and (d) seek judicial review of this Consent and Settlement Agreement by a court of competent jurisdiction.

22. Having consulted with independent legal counsel regarding the negotiation and execution of this Consent Order, the Respondents hereby agree and acknowledge that they are entering this Consent Order knowingly, willingly, voluntarily, and with the advice of counsel.

23. The Complainant hereby agrees and acknowledges that she is entering this Consent Order knowingly, willingly, and voluntarily. The Complainant further agrees and acknowledges that she had the opportunity to consult with independent legal counsel of her own choosing at her own expense but chose not to do so.

24. The Parties agree that the Commission shall withdraw this matter from the OAH Hearing document for settlement purposes pursuant to COMAR 09.01.03.07A.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 1st DAY OF April, 2024 BY THE MARYLAND REAL ESTATE COMMISSION:

ORDERED that Respondent Colette Fisher Fullard has violated the Maryland Real Estate Broker's Act, Md. Code Ann., Business Occupations and Professions Article §17-322(b)(3), (14)(i), (25), and (33) as well as Code of Maryland Regulations 09.11.02.01H and 09.01.02.02A; and it is further

ORDERED that based on the violations, the Commission imposes a **REPRIMAND** on the Respondent Colette Fisher Fullard's license registration number 05-680606; and it is further

ORDERED that Respondent Bernadette Cole has violated the Maryland Real Estate Broker's Act, Md. Code Ann., Business Occupations and Professions Article §§17-320(c), 17-322(b) (27) and (33), as well as the Code of Maryland Regulations 09.11.05.02A; and it is further

ORDERED that based on the violations, the Commission imposes a **REPRIMAND** on Respondent Bernadette Cole's license registration number 01-615054; and it is further

ORDERED that the Respondents shall pay the Complainant the sum of \$24,317.50 by certified check, cashier's check, or money order payable within seven (7) days of the date of this Consent Order; and it is further

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ORDERED that upon the Complainant's receipt of the sum of \$24,317.50 by certified check, cashier's check or money order from the Respondents, the Complainant's Guaranty Fund claim shall be dismissed with prejudice; and it is further

ORDERED that should the Respondents fail to make payment to the Complainant in the amount of \$24,317.50 within seven (7) days of this Consent Order as ordered herein, the Respondents' licenses shall be automatically suspended and remain suspended until such time as payment in full has been made to the Complainant, and it is further

ORDERED that should Respondents' failure to make payment to the Complainant in the amount of \$24,317.50 extend beyond thirty (30) days of the date of this Consent Order, the Complainant may request that the Commission transmit this matter back to the Office of Administrative Hearings for a hearing on the Complainant's Guaranty Fund claim; and it is further

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

MARYLAND REAL ESTATE COMMISSION:

By: **FILE NO TRILANCIS**

CHAIR

ITS IS SO AGREED:

SIGNATURE ON FILE <small>FILE NO TRILANCIS</small>	
Colette Fisher Fullard, Respondent	Date
SIGNATURE ON FILE <small>FILE NO TRILANCIS</small>	
Bernadette Cole, Respondent	Date
SIGNATURE ON FILE	03-29-24
Sophia Scott, Claimant	Date