

BEFORE THE MARYLAND REAL ESTATE COMMISSION

IN THE MATTER OF THE CLAIM *
OF GIA TONY, *
CLAIMANT, AGAINST THE *
MARYLAND REAL ESTATE *
COMMISSION GUARANTY FUND * Case No. 2019-RE-144 G.F.
RESP: DAVID HERBST *
LICENSE NO: 313647 *

PROPOSED ORDER

Upon a review of the available evidence, the Commission concludes that the Claimant has established a valid claim against the Maryland Real Estate Commission Guaranty Fund. It has been established that the above named Respondent was acting as a Real Estate Broker and collected rents for three condominium units known as Ocean Terrace, Units 106 and 111 and Bluewater East located in Ocean City, Maryland. The Respondent was holding security deposits and last month's rental funds in the amount of \$1500.00 for unit 106 and \$1500.00 for unit 111, and \$1600.00 for the unit in Bluewater East. On August 6, 2018, three checks in the amounts of \$675.00, \$697.50, and \$720.00 were sent to the owner (Claimant) for funds collected which were returned for insufficient funds. It has been established that the respondent closed the company in August and all funds had been depleted from the accounts. The Claimant is entitled to reimbursement under The Annotated Code of Maryland, Business Occupations and Professions Article, Title 17, Section 505.

It has further been established that, as a result of the actions by the Respondent, the Claimant has sustained a loss over \$5,000.00 and has elected to accept the full amount of \$5,000.00. Accordingly, the Commission hereby awards the Claimant Five Thousand Dollars and Zero cents (\$5,000.00), from the Maryland Real Estate Commission Guaranty Fund, and Orders that:

Claim # 2019-RE-144 G.F.

1. Pursuant to Business Occupations and Professions Article 17, Section 412(a) any real estate licenses held by the Respondent are suspended and the Respondent is ineligible for any real estate license until the Respondent has repaid any money paid from the Real Estate Guaranty Fund pursuant to this Order, under Code of Maryland Regulations 09.11.01.23A, with 12% annual interest.
2. The records and publications of the Maryland Real Estate Commission reflect this decision.
3. This decision is a proposed decision only and may be challenged by either the Claimant or the Respondent. If either party disagrees with this Proposed Order they may file written exceptions with the Commission. Any exceptions must be in writing addressed to the Executive Director signed below, Maryland Real Estate Commission, 500 N. Calvert Street, 3rd Floor, Baltimore, Maryland 21202 and must be received within thirty (30) days of receipt of this decision. If neither party files written exceptions, this proposed decision will become final at the end of the thirty (30) day period.

Jan 30, 2019
Date

MARYLAND STATE
REAL ESTATE COMMISSION

SIGNATURE ON FILE

By: _____
Michael L. Kasnic,
Executive Director