

BEFORE THE MARYLAND REAL ESTATE COMMISSION

**MARYLAND REAL ESTATE
COMMISSION**

*

v.

* **Case No. 2010-RE-152**

EVODY S. ROUTIER

* **OAH No. DLR-REC-21-10-17463**

Respondent

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OPINION AND FINAL ORDER

This matter came before the Maryland Real Estate Commission (“Commission”) on argument on Exceptions filed by the Respondent, Evody S. Routier, to the Proposed Order of December 8, 2010. On October 19, 2010, Administrative Law Judge Eileen C. Sweeney (“ALJ”) filed a Recommended Decision and Recommended Order in which she recommended that the “... REC suspend the license of the Respondent, Evody S. Routier, for thirty days and that she be required to pay a \$500.00 civil penalty for violating sections 17-322(b)(25), 17-502(a) and 17-532(c)(1)(v) of the Business Occupations Article and COMAR 09.11.02.02A...”.

On December 8, 2010, the Commission issued a Proposed Order that amended the ALJ’s Findings of Fact as follows:

“1. At all relevant times, the Respondent was a licensed real estate salesperson in Maryland under license number 05-325691.

33. The Respondent did not show up for her meeting with the Complainant on September 1, 2009 and did not call.”

The Commission affirmed the ALJ’s Conclusions of Law and amended the

Recommended Order, in part, as follows:

“...that the Respondent Evody S. Routier, violated Md. Bus. Occ. and Prof. Art. §§ 17-322(b)(25) and (33); 17-502(a); and 17-532(c)(1)(v); and COMAR 09.11.02.02A;

...that all real estate licenses held by Evody S. Routier be, and hereby are, suspended for a period of thirty (30) days;

... that the Respondent Evody S. Routier be assessed a civil penalty in the amount of \$5,000.00 which shall be paid within thirty (30) days of the date of this Proposed Order;

...that all real estate licenses held by the Respondent Evody S. Routier shall be suspended unless the civil penalty is paid in full within the 30-day period, and shall remain suspended until it is paid, and that this suspension is in addition to, and not in lieu of, the 30-day disciplinary suspension; ...”

A hearing, on the Exceptions filed by the Respondent, Evody S. Routier, was held by a panel of Commissioners, consisting of Commissioners Anne S. Cooke, Robin L. Pirtle, and Georgiana S. Tyler on May 18, 2011. Jessica Berman Kaufman, Assistant Attorney General, represented the Commission. The Respondent, who was present for the hearing, was not represented by counsel and waived legal representation. A transcript of the hearing before the ALJ was not provided to the Commission. The proceedings were electronically recorded.

SUMMARY OF THE EVIDENCE

On behalf of the Commission, four exhibits, including the Office of Administrative Hearings' folder, which contained the exhibits which were introduced at the hearing before the ALJ, were entered into evidence.

FINDINGS OF FACT

The Commission adopts the Findings of Fact recommended by the ALJ and the amendments to the ALJ's Findings of Fact as set forth in its Proposed Order.

DISCUSSION

At all relevant times, the Respondent was a licensed real estate salesperson in Maryland affiliated with RE/MAX Regal. FF 1, 2¹. In April, 2008, Pearline H. Walden ("Complainant") was interested in buying a house and contacted the Respondent to act as her real estate agent. FF 3. A house located at 11727 Fort Washington Road, Fort Washington, Maryland ("Property") was being sold by a bank ("Seller") as a foreclosure property, with REO Maryland Realty ("REO") acting as the listing broker. FF 4, 5. On November 25, 2008, pursuant to the Respondent's instructions, the Complainant wrote a check for the earnest money deposit on the Property in the amount of \$3,000.00 (check number 4390) leaving the payee blank. FF 6. On or about November 26, 2008, the Respondent submitted a contract on the Property to REO on the Complainant's behalf and a copy of the Complainant's \$3,000.00 check number 4390. FF 7. The payee on this check was RE/MAX Regal. FF 7. On November 26, 2008, the Respondent advised the Complainant that the earnest money deposit for the Property had

¹ "FF" refers to the ALJ's Findings of Fact.

to be in the amount of \$4,000.00. FF 8. In accordance with the Respondent's instructions, the Complainant wrote another check (check number 4391) from her bank account, in the amount of \$4,000.00, leaving the payee blank. FF 8. The Respondent told the Complainant that she would fill in the name of the payee. FF 8. On November 26, 2008, the Respondent filled in her name as the payee on the \$4,000.00 check (check number 4391) and cashed it. FF 9. Subsequently, the Respondent was in contact with the broker's assistant at REO and received some Addenda. FF 10. The Respondent and Complainant had discussions and exchanged e-mails with a Countrywide Loan Officer about financing for the purchase of the Property. FF 10. The Seller rejected the Complainant's offer in January, 2009 and the Complainant asked the Respondent when her \$4,000.00 deposit would be refunded. FF 11. The Respondent suggested that the Respondent retain possession of the money to use as a deposit on the next house they might find. FF 11. On or about March 9, 2009, the Complainant bid on another house located on Chesterfield Drive in Temple Hills, Maryland ("Temple Hills House") and gave the Respondent another \$4,000.00 deposit (check number 4468) because the Respondent told her that the "title company" had not released the other \$4,000.00 check. FF 12. The Complainant's March 9, 2009 offer on the Temple Hills House was accepted on March 12, 2009; however, the sale did not go through. FF 13. The Complainant's \$4,000.00 deposit on the Temple Hills House was deposited in RE/MAX Regal's escrow account on April 1, 2009. FF 14. The Complainant subsequently sold her home and bid on two other houses; those sales also did not go through. FF 15. The Complainant asked for the return of both \$4,000.00 deposits but the Respondent constantly put her off, telling her that the money was coming. FF 16. When

the Complainant obtained a copy of cancelled check number 4391, the second \$4,000.00 check which she had given to the Respondent, she discovered that the Respondent had written the Respondent's name on it as payee and had cashed it. FF 17. In response to the Complainant's request for an explanation as to why check number 4391 had been made out to the Respondent, the Respondent advised her that she had made the check payable to herself and used it to get a certified check from the bank because the Seller of the Property required a certified check as a deposit. FF 18. REO did not require certified funds until and unless an offer was accepted. FF 19. REO did not receive a certified check or a copy of a certified check in the amount of \$4,000.00 from the Respondent with regard to the Complainant's bid on the Property. FF 20. The sellers of the Temple Hills House and the Complainant signed a contract release on May 12, 2009 and May 19, 2009, respectively, authorizing RE/MAX Regal to disburse the \$4,000.00 deposit on the Temple Hills House to the Complainant. FF 21. On August 5, 2009, the Respondent provided RE/MAX Regal with the contract release as well as a written request from the Respondent to send a refund check to the Complainant. FF 21. The Complainant received a refund of the deposit on the Temple Hills House from RE/MAX Regal on or about August 5, 2009. FF 22. The Respondent failed to attend meetings with the Complainant scheduled for August 17 and 18, 2009. FF 23. Raymond Mayer, Broker/Owner of RE/MAX Regal, had no knowledge of the transaction involving the Property until August 19, 2009. FF 24. The Respondent did not submit a copy of the purchase offer or the deposit for the Property. FF 24. On August 19, 2009, the Complainant called Mr. Mayer who indicated to her that he was unaware of the \$4,000.00 deposit for the Property; requested that the Complainant send him a detailed

statement regarding her dealings with the Respondent, as well as e-mails between her and the Respondent; and stated that he would investigate the matter. FF 25. After the Complainant received the refund of the deposit on the Temple Hills House, she confronted the Respondent about the missing \$4,000.00 for the Property. FF 26. The Respondent advised the Complainant that the funds were in the form of a certified check and that she would return the funds to her. FF 26. On August 20, 2009, the Respondent advised the Complainant that she had not gotten back to her because she had been in a car accident. FF 27. When the Complainant told the Respondent that she would come and get the money, the Respondent insisted that she would bring it to the Complainant. FF 27. On August 21, 23, and 24, 2009, the Respondent advised the Complainant that she would drop off the money, but she did not do so and did not call. FF 28, 29, 30. On August 26, 2009, the Respondent called the Complainant at her office and asked if she would be there. FF 31. The Complainant informed the Respondent that she would be at her office until 1:00 p.m.. FF 31. The Respondent stated that she was in Maryland and would try to get to the Complainant before 1:00 p.m.; however, she failed to do so. FF 31. On August 31, 2009, the Respondent called the Complainant and stated that she would meet her with the money between 11:00 a.m. and 1:00 p.m. FF 32. The Respondent called back to say she could not make the meeting with the Complainant and would come by the Complainant's office the next day at lunch time. FF 32. The Respondent did not show up for the scheduled meeting with the Complainant on September 1, 2011 and did not call the Complainant. FF 33. When the Complainant called the Respondent, on September 2, 2009, to inquire why the Respondent had not keep their appointment, the Respondent stated that she was waiting for the check to clear

the bank and that she would get the money to the Complainant by the next day. FF 34. On September 3, 2009, the Respondent called the Complainant to advise her that she would meet her between 4:00 p.m. and 4:45 p.m. FF 35. The Respondent did not attend that scheduled meeting; instead, she called the Respondent and stated that she was late coming from Baltimore. FF 35. On or about September 4, 2009, the Respondent delivered a personal check in the amount of \$4,000.00 to the Complainant. FF 36. The Complainant filed a complaint against the Respondent with the Commission on September 25, 2009. FF 37.

Md. Code Ann., Business Occupations and Professions Article (“Bus. Occ. & Prof. Art.”), §17-322, provides, in pertinent part:

§ 17-322.

. . .

(b) 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;

. . .

(32) violates any other provision of this title;

. . .

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

Md. Code Ann., Bus. Occ. & Prof. Art., § 17-502(a) provides:

§ 17-502.

(a) An associate real estate broker or a real estate salesperson who obtains trust money while providing real estate brokerage services promptly shall submit the trust money to the real estate broker on whose behalf the associate real estate broker or the real estate salesperson provided the real estate brokerage services.

Md. Code Ann., Bus. Occ. & Prof. Art., § 17-532(c)(1)(v) provides:

§ 17-532.

. . .

(c) (1) A licensee shall:

. . .

(v) in a timely manner account for all trust money received[.]

The Commission's Code of Ethics is set forth in Code of Maryland Regulations ("COMAR"), Title 9, Subtitle 11, Chapter 2. COMAR 09.11.02.02A. provides:

.02 Relations to the Client.

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 the statutory obligations towards the other parties to the transaction.

The Commission concludes, based on the evidence and testimony presented before the ALJ and the ALJ's assessment of the credibility of the Complainant, Respondent and other witnesses, that the Respondent, in the course of the instant transaction, violated Md. Code Ann., Bus. Occ. & Prof. Art. §§ 17-322(b)(25) and (33); 17-502(a); and 17-532(c)(1)(v); and COMAR 09.11.02.02A.

The Complainant gave the Respondent a check in the amount of \$3,000.00 for an earnest money deposit on November 25, 2008. Upon being advised by the Respondent that the earnest money deposit had to be in the amount of \$4,000.00 and that the payee

section should be left blank, since she was not sure who it should be the payee, the Complainant subsequently gave the Respondent another check, with the payee section left blank, in the amount of \$4,000.00. The Respondent did not dispute that she had instructed the Complainant to leave the payee section blank on the earnest money deposit check in the amount of \$4,000.00; that she had filled her own name in as the payee; and that she had cashed the check. No evidence was presented at the ALJ's hearing that the Complainant had ever authorized the Respondent to fill in her own name as payee on the deposit check. Thus, the Commission concludes that the evidence and testimony established that the Respondent instructed her client, the Complainant, to leave the payee section of a \$4,000.00 earnest money deposit check blank; filled in her own name as payee; and cashed the check without the Complainant's knowledge or authorization. Further, the testimony and evidence at the hearing before the ALJ established that the Respondent falsely advised the Complainant that the seller of the Property required a deposit by certified check and that the Respondent had obtained a certified check and submitted it with the contract. Such conduct by the Respondent demonstrates bad faith, incompetency, or untrustworthiness, and constituted dishonest, fraudulent, or improper dealings by the Respondent in violation of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-322(b)(25).

The Commission also concludes, based on the evidence and testimony presented to the ALJ, that the Respondent failed to promptly submit the \$4,000.00 to her real estate broker, RE/Max Regal, in violation of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-502(a).

The Respondent did not dispute that she failed to return the Complainant's \$4,000.00 deposit for the Property until September 4, 2009, approximately nine months after she had received the check from the Complainant, and approximately eight months after the Complainant's proposed contract for the sale of the Property had been rejected. The Complainant's testimony and written statement to the Commission established that, although she had asked the Respondent for the return of the \$4,000.00 earnest money deposit on many occasions, and, although the Respondent assured her many times that she would refund the money, the Respondent did not appear at the many meetings which were scheduled for that purpose. The Respondent's failure to account for the trust money in a timely fashion violated Md. Code Ann., Bus. & Prof. Occ. Art., § 17-532(c).

Clearly, the Respondent's false statements to the Complainant that the seller required a certified check as a deposit on the Property and that she had obtained a certified check and submitted it with the contract to the seller; her failure to submit the deposit check to her broker so that its prompt return to the Complainant was prevented; and her refusal to return the \$4,000.00 to the Complainant when requested, were contrary to the Respondent's obligation to protect and promote the interests of her client. Therefore, the Commission concludes that the Respondent violated COMAR 09.11.02.02A and Md. Code Ann., Bus. Occ. & Prof. Art., § 17-322(b)(33).

Instead of or in addition to reprimanding, suspending or revoking a real estate license for a violation of the above statutes and regulations, Md. Code Ann., Bus. Occ. & Prof. Art. § 17-322(c) permits the assessment of up to a \$5,000.00 penalty per violation. To determine the amount of the penalty to be imposed, the Commission is required to consider the following criteria:

- 1) the seriousness of the violation;
- 2) the harm caused by the violation;
- 3) the good faith of the licensee; and
- 4) any history of previous violations by the licensee.

The Respondent contended at the Exceptions' hearing that a "mistake was made" by her in this matter. She pointed out that this is her first violation of the statutes and regulations relating to the provision of real estate brokerage services in twenty-five years and she sought a reduction of the penalty imposed to that recommended by the ALJ.

The Commission concludes that the Respondent's violations in this case were very serious. Without the authorization of the Complainant, the Respondent entered her own name as payee on the Complainant's deposit check and deposited it to her own account. Such conduct by the Respondent was, at the most, dishonest and fraudulent, and at the least, incompetent. The Respondent failed to notify her broker of the transaction or promptly submit the deposit to her broker as required. Although the Respondent should have returned the deposit monies to the Complainant months before she did, she failed to honor her promise to return the funds to the Complainant on at least eight different occasions. The Respondent's actions clearly were against the best interests of her client and violated the requirements for the handling of trust funds..

The Respondent's conduct caused harm not only to the Complainant, who was denied the return of her deposit for many months, but also reflected negatively on the real estate profession. The Commission has the duty to protect the public in real estate transactions and the type of conduct engaged in by the Respondent in failing to report a

transaction to her broker, in the conversion of funds and in the unacceptable delay in returning the Complainant's funds, clearly poses a risk to the public

The Respondent's failure to return the deposit money promptly and her repeated failure to attend scheduled meetings with the Complainant for the purpose of returning the deposit money to the Complainant show a lack of good faith.

Based on its review of the facts and the criteria set forth in Md. Code Ann., Bus. Occ. & Prof. Art., § 17-322(c), the Commission concludes that a period of suspension and a significant civil penalty are appropriate sanctions for the Respondent's wholly unacceptable behavior, as a real estate salesperson, in this case.

CONCLUSIONS OF LAW

Based upon the ALJ's Findings of Fact, which have been adopted by the Commission, and the foregoing Discussion, the Commission concludes, as a matter of law, that:

1. The Respondent engaged in conduct that demonstrates bad faith, incompetency, or untrustworthiness, or that constitutes dishonest, fraudulent, or improper dealings, in violation of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-322(b)(25).
2. The Respondent violated the provisions of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-502(a) by failing to promptly submit trust money to her real estate broker.
3. The Respondent violated the provisions of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-532(c)(1)(v) by failing to account for trust money received in a timely fashion.
4. The Respondent violated the provisions of the Code of Ethics, specifically COMAR 09.11.02.02A and, thus, also violated the provisions of Md. Code Ann., Bus. Occ. & Prof. Art., § 17-322(b)(33).

5. The Respondent is subject to sanctions for her conduct, and a suspension of all real estate licenses held by her for a period of thirty days and a \$5,000.00 civil penalty are appropriate sanctions. Md. Code Ann., Bus. Occ. & Prof. Art., §17-322(c).

ORDER

The Exceptions of the Respondent, Evody S. Routier, having been considered, it is this 10th day of August, 2011, by the Maryland Real Estate Commission, **ORDERED:**

1. That the Respondent, Evody S. Routier, violated Md. Code Ann., Bus. Occ. & Prof. Art., §§ 17-322(b)(25) and (33); 17-502(a); and 17-532(c)(1)(v); and COMAR 09.11.02.02A;

2. That all real estate licenses held by the Respondent, Evody S. Routier, be and hereby are **SUSPENDED** for a period of thirty (30) days;

3. That the Respondent, Evody S. Routier, be assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) which shall be paid within thirty (30) days of the date of this Order;

4. That all real estate licenses held by the Respondent, Evody S. Routier, shall be suspended unless the civil penalty is paid in full within the 30-day period, and shall remain suspended until it is paid, and that this suspension is in addition to, and not in lieu of, the 30-day disciplinary suspension; and

5. That the records and publications of the Maryland Real Estate Commission

reflect this decision.

MARYLAND REAL ESTATE COMMISSION

SIGNATURE ON FILE

By: _____

Note: A judicial review of this Final Order may be sought in the Circuit Court of Maryland in which the Appellant resides or has his/her principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.

BEFORE THE MARYLAND REAL ESTATE COMMISSION

MARYLAND REAL ESTATE COMMISSION *

v. *

EVODY S. ROUTIER
Respondent

* CASE NO. 2010-RE-152

* OAH NO. DLR-REC-21-10-17463

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PROPOSED ORDER

The Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge dated October 19, 2010, having been received, read and considered, it is, by the Maryland Real Estate Commission, this 8th day of December, 2010

ORDERED,

A. That the Findings of Fact in the recommended decision be, and hereby are, AMENDED as follows:

1. At all relevant times, the Respondent was a licensed real estate salesperson in Maryland under license number 05-325691.

33. The Respondent did not show up for her meeting with the Complainant on September 1, 2009, and did not call.

B. That the Conclusions of Law in the recommended decision be, and hereby are, AFFIRMED;

C. That the Recommended Order be, and hereby is, AMENDED as follows:

ORDERED that the Respondent Evody S. Routier violated Md.

Bus. Occ. and Prof. Art. §§17-322(b)(25) and (33); 17-502(a); and 17-532(c)(1)(v); and COMAR 09.11.02.02A;

ORDERED that all real estate licenses held by Evody S. Routier be, and hereby are, suspended for a period of thirty (30) days;

ORDERED that the Respondent Evody S. Routier be assessed a civil penalty in the amount of \$5,000.00, which shall be paid within thirty (30) days of the date of this Proposed Order;

ORDERED that all real estate licenses held by the Respondent Evody S. Routier shall be suspended unless the civil penalty is paid in full within the 30-day period, and shall remain suspended until it is paid, and that this suspension is in addition to, and not in lieu of, the 30-day disciplinary suspension;

ORDERED that the records and publications of the Maryland Real Estate Commission reflect this decision.

D. Pursuant to §10-220 of the State Government Article, the Commission finds that the Findings of Fact and Recommended Order of the Administrative Law Judge had to be modified. Finding of Fact 1 had to be changed because the judge cited the incorrect number from the Respondent's licensing history (REC Exhibit #3). Finding of Fact 33 had to be changed because the judge erroneously referred to the Respondent as the Appellant. The Recommended Order had to be modified in several ways. The judge omitted the provisions that the civil penalty had to be paid within 30 days, and that all real estate licenses held by the Respondent would be suspended unless the penalty is paid in full by that time. The Commission also

included in its Proposed Order §17-322(b)(33), which is the statutory basis for the violation of COMAR. Finally, the Commission increased the civil penalty from \$500.00 to \$5,000.00 to reflect the very serious nature of the Respondent's conduct. The Respondent failed to notify her broker of the transaction. Without authority of the buyer, she wrote her name as payee on the buyer's deposit check and deposited it in her own account, and then offered a series of explanations for the reasons for her actions and the whereabouts of the funds that were patently untrue. She admitted that she should have returned the funds months before she did, but again tried to explain her failure to do so in ways that the judge, and the Commissioners, find "nonsensical." Instead, she strung the buyer along, promising on at least eight different days that she would deliver the money that day and failing to do so.

The Commission has the duty to protect the public in real estate transactions. The type of conduct engaged in by this Respondent poses a risk to all she deals with - her failure to report a transaction to her broker, her conversion of funds, her false explanations, and her unacceptable delay in returning the funds to the buyer. The law has very specific requirements for the handling of trust funds; the Respondent violated all of them. Had she not had a history without prior violations, the Commission would have had to think seriously about revoking her license. However, the Commissioners believe that a period of suspension and a significant civil penalty will suffice to convince the Respondent that her conduct was wholly unacceptable, and that, should it be

repeated, she will likely lose her license.

E. Pursuant to Code of Maryland Regulations (COMAR) 09.01.03.08 those parties adversely affected by this Proposed Order shall have 20 days from the postmark date of the Order to file exceptions and to request to present arguments on the proposed decision before this Commission. The exceptions should be sent to the Executive Director, Maryland Real Estate Commission, 3rd Floor, 500 North Calvert Street, Baltimore, MD 21202.

SIGNATURE ON FILE

~~_____
Maryland Real Estate Commission~~

**MARYLAND REAL ESTATE
COMMISSION**

v.

**EVODY S. ROUTIER,
RESPONDENT**

*** BEFORE EILEEN C. SWEENEY,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH CASE NO.: DLR-REC-21-10-17463
* MREC FILE NO: 10-RE-152**

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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 September 25, 2009, Pearline H. Walden (Complainant) filed a complaint with the Maryland Real Estate Commission (REC or Commission), an administrative unit of the Department of Labor, Licensing and Regulation (DLLR), against Evody S. Routier (Respondent), a licensed real estate salesperson. On May 11, 2010, the REC issued a Statement of Charges and Order for Hearing against the Respondent.

On October 5, 2010, I conducted a hearing at the Office of Administrative Hearings (OAH) in Hunt Valley, Maryland. Md. Code Ann., Bus. Occ. & Prof. § 17-324 (2010) (Business Occupations Article). Hope Sachs, Assistant Attorney General, represented the REC. The Respondent represented herself.

The Administrative Procedure Act, the REC's Hearing Regulations, and the OAH's Rules of Procedure govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2010); Code of Maryland Regulations (COMAR) 09.01.03 and 28.02.01.

ISSUES

- 1) Did the Respondent violate sections 17-322(b)(25), 17-502(a) and 17-532(c)(1)(v) of the Business Occupations Article and COMAR 09.11.02.02A?
- 2) If so, what is the appropriate sanction?

SUMMARY OF EVIDENCE

Exhibits

I admitted the following exhibits on behalf of the REC:

- REC Ex. 1 July 7, 2010 Notice of Hearing
- REC Ex. 2 Undated Transmittal for DLLR REC, with attached May 11, 2010 Statement of Charges and Order for Hearing and undated DLLR Hearing Cover Sheet
- REC Ex. 3 July 29, 2010 licensing information
- REC Ex. 4 February 4, 2010 Report of Investigation, with attachments

The Respondent did not submit any exhibits into evidence.

Testimony

The REC presented the testimony of the Complainant and Steven Long, Assistant Executive Director, REC.

The Respondent testified on her own behalf; she did not present the testimony of any other witnesses.

FINDINGS OF FACT

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

1. At all relevant times, the Respondent was a licensed real estate salesperson in Maryland under license number 4012535.
2. At all relevant times, the Respondent was affiliated with RE/MAX Regal.¹
3. In April 2008, the Complainant was interested in buying a house and contacted the Respondent to act as her real estate agent.²
4. On or about November 26, 2008, the Respondent decided to bid on a house located at 11727 Fort Washington Road, Fort Washington, Maryland (Property).
5. The Property was being sold by a bank³ (Seller) as a foreclosure property, with REO Maryland Realty (REO) acting as the listing broker.
6. On November 25, 2008, pursuant to the Respondent's instructions, the Complainant wrote a check for the earnest money deposit on the Property in the amount of \$3,000.00 (check no. 4390), leaving the payee blank.⁴
7. On or about November 26, 2008, the Respondent submitted a contract on the Property to REO on the Complainant's behalf and a copy of the Complainant's \$3,000.00 check (check no. 4390). The payee on the check was RE/MAX Regal.
8. On November 26, 2008, the Respondent advised the Complainant that the earnest money deposit for the Property had to be in the amount of \$4,000.00. Pursuant to the Respondent's instructions, the Complainant wrote a check from her bank account in that amount (check no. 4391),

¹ The Respondent is no longer affiliated with RE/MAX Regal.

² Neither party provided the exact date the Complainant actually retained the Respondent or submitted into evidence a written contract between them.

³ Neither party identified the bank.

⁴ The REC indicated that the \$3,000.00 deposit is not at issue in this case.

leaving the payee blank.⁵ The Respondent told the Complainant that she would fill in the name of the payee.

9. On November 26, 2008, the Respondent filled in her name as the payee on the \$4,000.00 check (check no. 4391) and cashed it.

10. Subsequently, the Respondent was in contact with the broker's assistant at REO, Lizza Barron, about the Complainant's offer. The Respondent received some Addendums, and she and the Complainant had discussions and exchanged emails with a Countrywide Loan Officer, David Lewis, about financing for the purchase of the Property.

11. After the Seller rejected the Complainant's offer in January 2009, the Complainant asked the Respondent when her \$4,000.00 deposit would be refunded. The Respondent suggested that the Respondent hold onto the money to use as a deposit on the next house they might find.

12. On or about March 9, 2009, the Complainant bid on another house located on Chesterfield Drive in Temple Hills, Maryland (Temple Hills house); she gave the Respondent another \$4,000.00 deposit (check no. 4468) on or about that date because the Respondent told her that the "title company" had not released the other \$4,000.00 check. (REC Ex. 4.)

13. The Complainant's March 9, 2009 offer on the Temple Hills house was accepted on March 12, 2009; however, the sale did not go through.

14. The Complainant's \$4,000.00 deposit on the Temple Hills house was deposited in RE/MAX Regal's escrow account on April 1, 2009.

15. The Complainant subsequently sold her home and bid on two other houses; those sales also did not go through.

⁵ Although the Respondent also testified regarding suggested revisions to the contract on that date (*e.g.*, an increase in the amount of the bid), she did not establish that the Complainant made any revisions to her initial contract.

16. The Complainant became suspicious and asked the Respondent to return both \$4,000.00 deposits. The Respondent constantly put her off, telling her that the money was coming.

17. The Complainant obtained a copy of the cancelled check no. 4391 and discovered that the Respondent had written the Respondent's name as payee on the check and had cashed it.

18. The Complainant called the Respondent for an explanation as to why check no. 4391 had been made out to the Respondent. The Respondent advised her that she made the check out to herself and used it to get a certified check from the bank because the Seller of the Property required a certified check⁶ as a deposit.

19. REO did not require certified funds until and unless an offer was accepted.

20. REO did not receive a certified check or a copy of a certified check in the amount of \$4,000.00 from the Respondent with regard to the Complainant's bid on the Property.

21. The sellers of the Temple Hills house and the Complainant signed a contract release on May 12, 2009 and May 19, 2009, respectively, authorizing RE/MAX Regal to disburse the \$4,000.00 deposit on the Temple Hills house to the Complainant. On August 5, 2009, the Respondent provided RE/MAX Regal with that release as well as a written request from the Respondent to send a refund check to the Complainant.

22. On or about August 5, 2009, the Complainant received a refund of the deposit on the Temple Hills house from RE/MAX Regal.

23. The Respondent failed to attend meetings with the Complainant scheduled for August 17 and 18, 2009.

⁶ In her testimony, the Respondent referred to a "certified check;" in her statements to the REC, she referred to a "cashier's check." "Certified check" is defined as "[a] depositor's check drawn on a bank that guarantees the availability of funds for the check." BLACK'S LAW DICTIONARY 252 (8th ed. 2004). "Cashier's check" is defined as "[a] check drawn by a bank on itself, payable to another person, and evidencing the payee's authorization to receive from the bank the amount of money represented by the check" *Id.* For purposes of this decision, I will refer to the check as a "certified check."

24. Until August 19, 2009, Raymond Mayer, Broker/Owner, RE/MAX Regal, had no knowledge of the transaction involving the Property. The Respondent did not submit a copy of the purchase offer or the deposit for the Property.

25. On August 19, 2009, the Complainant called Mr. Mayer, who indicated to her that he was unaware of the \$4,000.00 deposit for the Property. He requested that the Complainant send him a detailed statement about her dealings with the Respondent, as well as emails between the Respondent and her, and stated that he would investigate the matter.

26. After the Complainant received the refund of the deposit on the Temple Hills house, she confronted the Respondent about the missing \$4,000.00 deposit for the Property. The Respondent advised the Complainant that the funds were in the form of a certified check and that she would return the funds to her.

27. On August 20, 2009, the Respondent advised the Complainant that she had not gotten back to her because she had been in a car accident. The Complainant told the Respondent that she would come get the money; however, the Respondent insisted that she would bring it to the Complainant.

28. On August 21, 2009, the Respondent advised the Complainant that she would drop the money off that afternoon, but she did not do so and did not call.

29. On August 23, 2009, the Respondent called the Complainant to tell her that she would drop off the money, but she did not do so and did not call.

30. On August 24, 2009, the Respondent called the Complainant to tell her that she would drop off the money, but she did not do so and did not call.

31. On August 26, 2009, the Respondent called the Complainant at her office to ask if she would be there. The Complainant advised her that she would be at her office until 1:00 p.m.

The Respondent stated that she was in Maryland and would try to get to the Complainant before 1:00 p.m.; however, she did not do so.

32. On August 31, 2009, the Respondent called the Complainant to advise her that she would meet her with the money between 11:00 a.m. and 1:00 p.m. She called back to say that she could not make it and that she would go by the Complainant's office the next day at lunch time.

33. The Appellant did not show up for her meeting with the Complainant on September 1, 2009, and did not call.

34. On September 2, 2009, the Complainant called the Respondent to ask why she did not keep her appointment. The Respondent stated that she was waiting for the check to clear the bank and that she would get the money to the Complainant by the next day.

35. On September 3, 2009, the Respondent called the Complainant to advise her that she would meet her between 4:30 and 4:45 p.m. She did not attend that meeting; she called to say that she was late coming from Baltimore.

36. On or about September 4, 2009, the Respondent delivered a personal check in the amount of \$4,000.00 to the Complainant.

37. On September 25, 2009, the Complainant filed a complaint with the REC against the Respondent.

38. The Respondent has no history of statutory or regulatory violations.

DISCUSSION

Legal Standards

Section 17-322 provides in pertinent part as follows:

§ 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;

...

(32) violates any other provision of this title;

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

Section 17-502(a) provides:

§ 17-502. Handling of trust money.

(a) *Submission to brokers by associate brokers and salespersons.* - An associate real estate broker or a real estate salesperson who obtains trust money while providing real estate brokerage services promptly shall submit the trust money to the real estate broker on whose behalf the associate real estate broker or the real estate salesperson provided the real estate brokerage services.

Section 17-532(c)(1)(v) provides:

§ 17-532. Duties to client.

...

(c) *In general.* - (1) A licensee shall:

...

(v) in a timely manner account for all trust money received[.]

COMAR 09.11.02.02 provides:

.02 Relations to the Client.

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 the statutory obligations towards the other parties to the transaction.

The REC contended that the Respondent violated section 17-322(b)(25) of the Business Occupations Article and COMAR 09.11.02.02A by (1) instructing her client, the Complainant, to leave the payee blank on an earnest money deposit check, filling in her own name, and cashing the check; (2) falsely advising the Complainant that the Seller of the Property required a deposit by certified check and that the Respondent had obtained a certified check and submitted it with the contract; and (3) failing to return the deposit to the Complainant in a timely manner after the contract was not accepted, despite repeated requests from the Complainant and repeated assurances from the Respondent that she would deliver the funds to her.

The REC further contended that the Respondent violated sections 17-502(a) and 17-532(c)(1)(v) and COMAR 09.11.02.02A by failing to promptly submit the deposit to her broker and failing to account for all trust monies in a timely manner.

The Respondent denied that she engaged in conduct demonstrating bad faith, incompetency, or untrustworthiness or that constituted dishonest, fraudulent, or improper dealings; admitted that she delayed too long in returning the deposit money to the Complainant but contended that there were extenuating circumstances; and contended that she always submitted the necessary paperwork to her broker. According to the Respondent, she did no harm to the Complainant, protecting and promoting the Complainant's interests at all times.

For the following reasons, I find that the REC established by a preponderance of the evidence that the Respondent violated the aforementioned statutes and regulation.

Violations

Bad Faith, Incompetency, or Untrustworthiness; Dishonest, Fraudulent, or Improper Dealings

Respondent as Payee

The Complainant testified that after signing a contract and giving the Respondent a check in the amount of \$3,000.00 for an earnest money deposit on November 25, 2008, for the Respondent to submit on her behalf to the listing agent for the Property, she gave the Respondent another check for the deposit in the amount of \$4,000.00 on November 26, 2008. She did so because the Respondent told her that the deposit had to be for the increased amount. In addition, the Respondent was in a hurry to get to New York and told the Complainant to leave the payee blank and that she would fill it in later. When the Complainant received her bank statement, she saw that her check had been cashed, but did not know by whom.

The Complainant testified that after she obtained a copy of the cancelled check, she discovered that the Respondent had written her own name as payee and cashed the check on the same day the Complainant gave it to her. When the Complainant called the Respondent for an explanation as to why the check had been made out to the Respondent, the Respondent advised her that she made the check out to herself and used it to get a certified check from the bank because the Seller of the Property required a certified check as a deposit.

The Respondent did not dispute that she instructed the Complainant to leave the payee blank on the earnest money deposit check, filled in her own name, and cashed the check. The Respondent testified that after she submitted a contract and a copy of the initial \$3,000.00 deposit check to REO, the REO broker's assistant, Lizza Barron, told her they had received other offers and that the Complainant needed to make her best offer. The Respondent discussed it with the Complainant who decided to increase the amount of her earnest money deposit to \$4,000.00.

In her testimony and October 20, 2009 letter to the DLLR, the Respondent indicated that because some listing agents for foreclosure properties ask that earnest money deposit checks be made payable to their companies, she was not sure to whom the check should be made payable. Therefore, she told the Complainant to leave the payee blank, with the intention of filling it in when she had more information. According to the Respondent's written statement to the REC, the Seller or REO subsequently requested that the deposit be in the form of a certified check and the Complainant, "who had already left the area," asked the Respondent to see if the bank would issue such a check. (REC Ex. 4.) According to the Respondent, when she went to the bank, she was told that she had to endorse the Complainant's check in order to get a certified check. (REC Ex. 4.) Because the Respondent was eager to get the offer through, she endorsed the check and got a certified check to submit to REO.

I found the Complainant's testimony that she was unaware of the Respondent's actions until she obtained a cancelled check to be credible. She spoke calmly and in a matter-of-fact manner and her testimony was consistent with her statements to the REC. On the other hand, the Respondent's testimony and her statements to the REC were frequently inconsistent; she spoke rapidly and was unable to adequately explain much of her conduct in her dealings with the Complainant. Even if I was to believe that the Complainant asked the Respondent to try to get a certified check from the bank using the check the Complainant gave her, the Respondent presented no evidence that the Complainant ever authorized her to fill in her own name as payee. Rather, the evidence established that the Respondent never told the Complainant that she did so, instead allowing her to discover it when she obtained a copy of the check from the bank. Furthermore, as discussed in greater detail below, I did not find the Respondent's testimony that a certified check was required by the Seller to be credible.

Thus, I find that a preponderance of the evidence established that the Respondent instructed her client, the Complainant, to leave the payee blank on an earnest money deposit check, filled in her own name, and cashed the check without the Complainant's knowledge or authorization. I find that such conduct demonstrated bad faith, incompetency, or untrustworthiness, and constituted dishonest, fraudulent, or improper dealings in violation of section 17-322(b)(25) of the Business Occupations Article.

Certainly, it was contrary to the best interests of the Complainant to have her money handled in such a deceitful way and for the Respondent to have such little regard for the manner in which the Complainant might like her funds to be handled. Accordingly, I further find that the aforementioned conduct violated COMAR 09.11.02.02A.

Alleged Certified Check

Steven Long, Assistant Executive Director, REC, who investigated the complaint filed by the Complainant against the Respondent, testified that Gladwin D'Costa, the broker for REO, advised him during the course of his investigation that REO received only a copy of a personal check in the amount of \$3,000.00 (check no. 4390) made out to RE/MAX Regal along with the Complainant's offer on the Property. Furthermore, Mr. D'Costa explained to Mr. Long that he did not require certified funds until an offer was accepted; because the Complainant's offer was not accepted, no certified funds would have been required or requested.

Additionally, Mr. Long testified that during the course of his investigation, the Respondent could not produce any documents relating to the transaction, including a copy of the alleged certified check.

The Complainant reported to the REC or testified as to the following inconsistent statements made by the Respondent to her: (1) when the Complainant asked for the return of the deposit after

being told that the contract on the Property had not been accepted, the Respondent told her that she would continue to look for a house for the Complainant and would hold onto the money to use as a deposit on another house; (2) when the time came to make a deposit on the Temple Hills house the Respondent told the Complainant that she did not have the \$4,000.00 because “the company” had not sent back the check. (REC Ex. 4.); (3) after the Complainant sold her home and asked the Respondent to return both \$4,000.00 deposits, the Respondent told her the money was coming; and (4) after the Complainant obtained a copy of the cancelled check no. 4391, the Respondent advised her that she made the check out to herself and used it to get a certified check from the bank because the Seller of the Property required a certified check as a deposit.

The REC investigative report shows that the Respondent advised the REC that she sent a copy of the certified check along with the offer to the Seller; placed the certified check in a folder in her car; at some point moved the folder from her car to her office; and was then unable to find the folder. She advised Mr. Long that she could not remember to whom she sent the copy of the certified check and offer, but believed that she sent it to REO.

The Respondent did not dispute that she told the Complainant that the Seller or REO required that she submit a certified check. Indeed, that is the position she took during the REC’s investigation and at the hearing.

The Respondent testified that she obtained a certified check for the deposit on the Property because she was advised that the Seller required such a check. She further testified that she emailed the contract and check to Lizza Barron, then mailed the originals to her, keeping the copies first in her car, then in her office. After the Seller accepted another bid on the Property, she asked that the Complainant be placed on “back up” in case the sale fell through. When the Complainant found another home she wanted to bid on, the Respondent advised the Complainant

that she could tell REO that she did not want to be on “back up” and to send the check back, or she could write another check to submit with that bid. After the Complainant sold her house, the Respondent sent emails to Lizza Barron asking for a return of the earnest money deposit on the Property.

I did not find the Respondent’s testimony that a certified check was required to be credible. She stated that she was advised that a certified check was required but did not provide the name of the individual who allegedly gave her those instructions. Nor was she able to produce a copy of the alleged certified check. Furthermore, as discussed above, the Respondent gave several inconsistent stories about the existence of and/or disposition of the alleged certified check.

I note also that the Respondent testified that she turned in documents to her broker’s assistant every time there was an offer. Yet, in an August 20, 2009 letter to the Virginia Real Estate Board,⁷ Raymond G. Mayer, Broker/Owner, RE/MAX Regal, stated that RE/MAX Regal did not receive a copy of the Complainant’s contract on the Property or the earnest money deposit check. Finally, her testimony was directly contrary to Mr. D’Costa’s statement description to Mr. Long of the procedure followed by REO, which did not include the submission of a certified check with an offer.

The Respondent argued that the fact that she had subsequent conversations with Ms. Barron about revisions to the Complainant’s contract and that she and the Complainant communicated about financing with David Lewis of Countrywide Home Loans, the lender handling the foreclosure of the Property, proved that she submitted an original or copy of a certified check for \$4,000.00 along with a contract to REO. The evidence did not support that assumption, however. Mr. D’Costa acknowledged receipt of a contract from the Respondent, but it was accompanied by a copy of the deposit check in the amount of \$3,000.00 made out to

⁷ The Respondent was also licensed in Virginia.

RE/MAX Regal, not a \$4,000.000 original or copy of a certified check in the amount of \$4,000.00. I do not doubt that the Complainant and the Respondent communicated with Mr. Davis since the Complainant acknowledged that in her statement to the REC and in her testimony,⁸ but that does not show that the Seller or REO ever received a certified check. The Respondent did not call either Ms. Barron or Mr. Davis to present testimony to support her contentions.

Thus, I find that a preponderance of the evidence established that the Respondent falsely advised the Complainant that the Seller of the Property on which the Complainant bid required a deposit by certified check and that the Respondent had obtained a certified check and submitted it with the contract. I find that such conduct demonstrated bad faith, incompetency, or untrustworthiness, and constituted dishonest, fraudulent, or improper dealings in violation of section 17-322(b)(25) of the Business Occupations Article.

Certainly, it was against the Complainant's best interests to be given false information. Accordingly, I further find that the Respondent violated COMAR 09.11.02.02A.

Delay in Returning Deposit

The Respondent did not dispute that she failed to return the Complainant's \$4,000.00 deposit for the Property until September 4, 2009, approximately nine months after the Complainant gave it to her and approximately eight months after the contract for the Property was rejected. The Complainant's testimony established that she asked for a return of her \$4,000.00 deposit many times and was given multiple excuses. The Complainant's testimony

⁸ In an October 8, 2009 letter to the REC, Mr. Mayer stated that David Lewis, Countrywide Home Loans, the lender handling the foreclosure of the Property, advised him that he did not receive a purchase offer with an earnest money deposit for the Property. I do not find that information relevant, however, as the Respondent never contended that she submitted the contract or deposit to Mr. Lewis.

and written statement to the REC showed that the Respondent assured her many times that she would refund the deposit, setting up numerous meetings at which she did not appear.

The Respondent admitted that she should have returned the Complainant's deposit months before she did, but stated that when the Complainant initially asked for her deposit back, she did not return it right away because the Complainant had changed her mind in the last few months regarding searching for a house. Once she realized that the Complainant was serious about discontinuing her search for a house, she "started looking for the . . . check. . . ." (REC Ex. 4.) I found this argument nonsensical -- the fact that the Complainant might change her mind about searching for a house to purchase did not give the Respondent the right to withhold the deposit when her client demanded its return.

The Respondent testified upon cross-examination that it sometimes takes "forever" to get a check from REO and that she did not realize until August that it was not sending back the deposit check. As discussed above, I did not find the Respondent's testimony that she submitted the check to the Seller or REO to be credible. Furthermore, as discussed below, the deposit should have been held in escrow by the Respondent's broker and should have been readily available.

The Respondent further testified that she was under a lot of stress because her son had been diagnosed with multiple sclerosis and was in and out of the hospital when she was trying to get together with the Complainant to return the deposit money. I note that she made no mention of that situation to the Complainant. Regardless, the Respondent failed to explain why her son's medical condition prevented her from returning the deposit by mail or in person sometime during the many months the Complainant was requesting a refund.

Thus, I find that a preponderance of the evidence established that the Respondent failed to return the deposit for the Property to the Complainant in a timely manner after the contract was not accepted, despite repeated requests from the Complainant and repeated assurances from the Respondent that she would deliver the funds to her. I find that such conduct demonstrated bad faith, incompetency, or untrustworthiness, and constituted dishonest, fraudulent, or improper dealings in violation of section 17-322(b)(25) of the Business Occupations Article.

Refusing to return funds to the Complainant when requested was certainly contrary to the Complainant's best interests. Accordingly, I further find that the Respondent violated COMAR 09.11.02.02A.

Failure to Promptly Submit Trust Money to Broker

Mr. Mayer was very clear in his written statement to the REC that the Respondent did not submit a copy of the purchase offer or the deposit for the Property to him. The Respondent presented no testimony or other evidence to rebut his statement other than her vague testimony that she turned in documents to Mr. Mayer's assistant every time there was an offer. She took the positions, alternately, in her statements to the REC and in her testimony that she placed the original certified check in a folder, which was misplaced, and that she sent the original certified check to the Seller or REO.

Thus, I find that a preponderance of the evidence established that the Respondent failed to promptly submit the deposit for the Property to her broker in violation of section 17-502(a) of the Business Occupations Article.

By failing to submit the deposit to her broker, the Respondent prevented the Complainant from obtaining a prompt refund. Accordingly, I further find that the Respondent's failure to

promptly submit the deposit to her broker was contrary to the Complainant's best interests in violation of COMAR 09.11.02.02A.

Failure to Account for All Trust Monies in Timely Manner

As discussed above, the Respondent clearly did not account for the \$4,000.00 deposit in a timely manner, delaying the return of that amount to the Complainant until September 4, 2009, despite repeated attempts by the Complainant to obtain it.

Thus, I find that a preponderance of the evidence established that the Respondent failed to account in a timely manner for all trust money received in violation of section 17-532(c)(1)(v) of the Business Occupations Article.

By failing to account for the deposit on the Property in a timely manner, the Respondent prevented the Complainant from learning the true status of her deposit and prevented the Complainant from obtaining a prompt refund. Accordingly, I further find that the Respondent's failure to account for all trust money in a timely manner was contrary to the Complainant's best interests in violation of COMAR 09.11.02.02A.

Sanctions

The REC argued that an appropriate sanction in this case is a thirty-day suspension of the Respondent's license and the imposition of a \$500.00 penalty (total) under section 17-322 of the Business Occupations Article. It stipulated that the Respondent has no prior violations on her record but argued that her violations in this case were serious and harmful.

The Respondent expressed remorse for her conduct and emphasized that she has been selling real estate for approximately twenty years, with no prior violations. She testified that she is an honest person and respects and obeys the rules.

Section 17-322(c) provides in pertinent part as follows with regard to penalty:

**§ 17-322. Denials, reprimands, suspensions, revocations, and penalties --
Grounds.**

...

(c) *Penalty.* -- (1) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this section, the Commission may impose a penalty not exceeding \$5,000 for each violation.

(2) To determine the amount of the penalty imposed, the Commission shall consider:

- (i) the seriousness of the violation;
- (ii) the harm caused by the violation;
- (iii) the good faith of the licensee; and
- (iv) any history of previous violations by the licensee.

I find that, in this case, the Respondent's violations were serious. Her conduct in naming herself as payee on the Complainant's check was, at the most, dishonest and fraudulent, and, at the least, incompetent, reflecting badly upon the real estate agent industry and acting against the best interests of the client. The Complainant did ultimately receive a refund of the \$4,000.00 but was without that money for many months. The Respondents failure to return the deposit money promptly and her repeated failure to show up for scheduled meetings with the Complainant to do so, showed a lack of good faith. In light of these factors as well as the Respondent's prior good history, I find that a thirty-day suspension of her license and a \$500.00 penalty (total) is appropriate in this case.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Respondent violated sections 17-322(b)(25), 17-502(a) and 17-532(c)(1)(v) of the Business Occupations Article and COMAR 09.11.02.02A.

I further conclude as a matter of law that an appropriate sanction in this case is a thirty-day suspension of the Respondent's license and the imposition of a \$500.00 penalty (total). Md. Code Ann., Bus. Occ. & Prof. §17-322(c) (2010).

RECOMMENDED ORDER

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

ORDER that the REC suspend the license of the Respondent, Evody S. Routier, for thirty days and that she be required to pay a \$500.00 civil penalty for violating sections 17-322(b)(25), 17-502(a) and 17-532(c)(1)(v) of the Business Occupations Article and COMAR 09.11.02.02A; and

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

October 19, 2010
Date Decision Mailed

ECS/ecs
#117265

SIGNATURE ON FILE
Eileen C. Sweeney
Administrative Law Judge



MARYLAND REAL ESTATE

*** BEFORE EILEEN C. SWEENEY,**

COMMISSION

*** AN ADMINISTRATIVE LAW JUDGE**

v.

*** OF THE MARYLAND OFFICE OF**

**EVODY S. ROUTIER,
RESPONDENT**

*** ADMINISTRATIVE HEARINGS**

*** OAH CASE NO.: DLR-REC-21-10-17463**

*** MREC FILE NO: 10-RE-152**

*** * * * ***

FILE EXHIBIT LIST

I admitted the following exhibits on behalf of the REC:

REC Ex. 1 July 7, 2010 Notice of Hearing

REC Ex. 2 Undated Transmittal for DLLR REC, with attached May 11, 2010
Statement of Charges and Order for Hearing and undated DLLR Hearing
Cover Sheet

REC Ex. 3 July 29, 2010 licensing information

REC Ex. 4 February 4, 2010 Report of Investigation, with attachments

The Respondent did not submit any exhibits into evidence.