

BEFORE THE WEST VIRGINIA REAL ESTATE COMMISSION

WEST VIRGINIA REAL ESTATE COMMISSION,
Complainant,

V.

Complaint No. C-10-043

FRANCIS LEE PAT ARMSTRONG,
Licensed Real Estate Salesperson,
Respondent.

CONSENT DECREE

The Respondent, Francis Lee Pat Armstrong (hereinafter "Respondent"), and the West Virginia Real Estate Commission (hereinafter "Commission"), by Richard E. Strader, its Executive Director, execute this Consent Decree for the purpose of resolving a Formal Complaint filed against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact, Conclusions of Law and Order set forth herein concerning the proper disposition of this matter. The Commission, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Commission is a state agency created by West Virginia Code § 30-40-1, *et seq.*, and is empowered to regulate the practice of real estate brokerage in the State of West Virginia.
2. Respondent is a licensed real estate salesperson and is subject to the Commission's license requirements.
3. At all times relevant, Respondent served as an agent with Zaferatos Real Estate in Beckley, West Virginia. Kathy Zaferatos was the Respondent's responsible broker.

4. On April 19, 2008, the Respondent listed a property located at 23 Washington Street, Pineville, West Virginia for sale through an Exclusive Right to Sell Listing Contract with Zaferatos Real Estate, her employing broker's company, and Nancy Rickards (hereinafter "seller") to list the Property for \$89,900. The Listing Contract was effective for a period of twelve (12) months and provided for a commission of six percent (6%) of the gross selling price upon the sale, lease or exchange of property if sold by Zaferatos Real Estate.

5. On June 5, 2009, the contracted purchaser of the house, Deborah Pierce (hereinafter "buyer"), deposited earnest money in the amount of ten thousand dollars (\$10,000.00) with Respondent.

6. Respondent did not turn this deposit over to her responsible broker.

7. On June 11, 2009, seller was paid Five thousand five hundred dollars (\$5,500.00) of the original ten thousand dollar (\$10,000.00) down payment, and the remaining four thousand five hundred dollars (\$4,500.00) remained with Respondent as the six percent (6%) commission on the sale.

8. Respondent did not turn the commission over to her responsible broker.

CONCLUSIONS OF LAW

1. West Virginia Code § 30-40-19(a)(8) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if he or she "[f]ails, within a reasonable time, to account for or to remit moneys or other assets coming into his or her possession, which belongs to others."

2. West Virginia Code § 30-40-19(a)(16) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if he or she "[a]ccepts compensation as a

salesperson or associate broker for any act specified in this article from any person other than his or her employer who must be a broker.”

3. West Virginia Code § 30-40-19(a)(37) provides that the Commission has the authority to revoke, suspend or otherwise discipline a licensee if the licensee “[e]ngages in any act or conduct which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing.”

4. The Respondent’s (1) accepting the deposit money, (2) not turning that money over immediately to her responsible broker, (3) accepting the six percent (6%) commission as deducted from the deposit, and (4) not turning the commission over to her responsible broker, demonstrate violations of West Virginia Code §§ 30-40-19(a)(8), (16) and (37).

5. The above violations render the Respondent’s license subject to discipline by the Commission.

CONSENT

Respondent, by signing below, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that she may pursue this matter through appropriate administrative, and is aware of her legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting her conduct as a real estate salesperson.

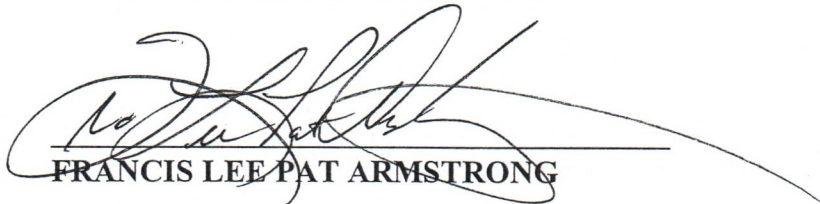
3. Respondent has chosen to voluntarily forfeit her license.

ORDER

On the basis of the foregoing, the Commission hereby **ORDERS** as follows:

1. That the Commission accepts the Respondent's forfeiture of her license in lieu of proceeding to formal hearing in this matter.
2. Respondent agrees to not apply to the Commission for reinstatement of her real estate licensure in the future.

CONSENT DECREE AGREED TO BY:



FRANCIS LEE PAT ARMSTRONG

1/22/2011

DATE

ENTERED into the records of the Real Estate Commission this:

28th day of January, 2011

WEST VIRGINIA REAL ESTATE COMMISSION,

By: 

RICHARD E. STRADER,
EXECUTIVE DIRECTOR

