

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

MAINE REAL ESTATE COMMISSION

In Re:)
Stephen B. Drury)
ERA Worden Realty) **CONSENT AGREEMENT**
473 Center Street)
Auburn, Maine)
)

INTRODUCTION

This Consent Agreement regarding the brokerage activity of Stephen B. Drury is entered into pursuant to 32 M.R.S.A. § 13069(6)(B) (1988). The parties to this Consent Agreement are Stephen A. Drury ("Drury") and Carol J. Leighton, Director of the Maine Real Estate Commission ("Director").

FACTS

On September 12, 2005 Ryan and Angela Additon ("the Additons") filed a complaint with the Maine Real Estate Commission against Drury, an associate real estate broker licensed with ERA Worden Realty ("the company") in Auburn. Based upon the staff investigation, the Director determined the facts to be as follows:

On November 9, 2004 Drury listed for sale a single family home located at 43 Glendale Avenue in Auburn owned by Bonnie J. Lee ("Lee"). According to Drury, Lee purchased the property as an investment. Lee had not lived at the property either before or during the listing. Lee hired a contractor to perform renovations, which included a new 18' x 22' addition and new shingles were installed on the old section of the home in 2004.

As part of the listing process, Drury provided a copy of the company's property disclosure form to Lee. According to Drury, Lee told him how to respond to the disclosure questions and he wrote in her responses. Although the property disclosure form asked for information on the age of the house and roof and if moisture or leakage problems existed, no information was provided. Instead, Drury drew a line in the area provided for a response. In response to two other questions, Drury wrote in that the seller had never lived in the house and that the age of the shingles was "2004." No other information regarding the roof was provided as part of the property disclosure form.

Drury also prepared information for the multiple listing service "MLS") to promote the sale of Lee's property. In this information, Drury promoted the property as follows: "ALL NEW-ROOF, WINDOWS, FLOORING- 2 NEW FULL BATHS, OAK KITCHEN, NEW BB/HW FURNANCE, NEW 18 X 22 ADDITION WITH FULL FOUNDATION, NEW ROOF AND MUCH MORE."

On March 17, 2005 the Additons entered into a buyer broker agreement with Julie Watt ("Watt"), at the time licensed as a real estate sales agent with ERA Worden in Auburn. Watt showed Lee's property to the Additons. On March 29, 2005 Watt prepared a written offer from the Additons for the purchase the property. Lee accepted the offer on March 31, 2005. At some point the Additons received a copy of the MLS advertisement and the property disclosure form.

The contract was contingent upon a satisfactory building inspection, which the Additons had completed. As a result of the inspection the buyers requested various repairs, which the seller agreed to complete. The inspector did not raise any issues pertaining to the roof.

Just prior to the closing there was a water leak around a bathroom window. The seller's carpenter repaired the area and the Additons were told that the problem had been corrected.

On April 29, 2005 the sale closed. At the closing an additional agreement was reached regarding items which had not yet been completed. The items did not pertain to the roof.

Approximately one month after the Additons moved into the property, they noticed that the roof was leaking in two separate places. As a result of the leakage, the Additons discovered that the older section of the home did not have a "new roof" as had been represented but had merely been re-shingled. In addition, they were informed by roofing contractors that the new shingles had been placed on rotting and molding plywood. According to the Additons, the cost estimates to repair the roof were approximately \$5,500. The Additons contacted ERA Worden Realty and asked for assistance in repairing the roof. The agency did not agree to assist the Additons with repairs.

In July of 2005 the Additons had the roof replaced over the older section of the home.

AGREEMENT

Whereas, the parties wish to conclude this matter without a hearing before the Commission, they hereby agree to the following terms, subject to the approval of the Commission and the Department of the Attorney General.

1. Drury acknowledges all the facts set forth above as true to the best of his knowledge and belief.
2. Drury acknowledges that he made a substantial misrepresentation by omission by failing to record information on the company property disclosure form regarding the roof, specifically that the shingles had been replaced on the older section of the home and that the addition, including the roof, had been constructed in 2004, which constitutes a violation of 32 M.R.S.A. § 13067(1)(D) in effect at that time.
3. Drury acknowledges that he made a substantial misrepresentation by commission when he promoted his client's property in the MLS as having a new roof, when he was aware that

the older section of the home had only been re-shingled, which constitutes a violation of 32 M.R.S.A. § 13067(1)(D) in effect at that time.

4. Drury acknowledges that the conduct set out in paragraphs 2 and 3 above constitute a failure to protect and promote his client's interests, which constitutes a violations of 32 M.R.S.A. § 13067(1)(G) in effect at that time.

5. Drury agrees to submit to the Commission a bank check or money order made payable to Ryan and Angela Additon in the amount of \$3,000.00. The bank check or money order shall be submitted to the Commission within 30 days of the approval date of this Agreement.

6. The Director and the Commission agree that no further agency or legal action will be initiated against Drury by the Commission based upon the facts described herein, except that in the event that Drury does not fully comply with the terms of this Agreement, the Director or the Commission shall initiate whatever action is deemed necessary. However, the Director or the Commission may consider the misconduct described above as evidence of a pattern of conduct in the event that similar misconduct allegations are brought against Drury in the future. Additionally, the Director or the Commission may consider the fact that discipline was imposed by this Agreement, as a factor in determining appropriate discipline should any further misconduct allegations be proven against Drury in the future.

Dated: 1/23/08

Stephen B. Drury
STEPHEN B. DRURY

Dated: 1/23/08

Carol J. Leighton
WITNESS

Dated: 1/24/08

Carol J. Leighton
CAROL J. LEIGHTON
Director
Maine Real Estate Commission

APPROVED

Dated: 3/27/08



ROBERT C. PERKINS
Assistant Attorney General
Commission Counsel for the
Office of the Attorney General



JEFFREY S. MITCHELL
Chair
Maine Real Estate Commission