

**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
MAINE REAL ESTATE COMMISSION**

In Re:

Felicia H. Cummings)	
RE/MAX Advanced Real Estate)	CONSENT AGREEMENT
57 Tandberg Trail)	
Windham, Maine)	

INTRODUCTION

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

FACTS

Cummings is the designated broker for RE/MAX Advanced Real Estate doing business at 57 Tandberg Trail in Windham, Maine.

On April 11, 2008 Real Estate Examiner Judith Phillips ("Phillips") conducted an office and trust account audit of RE/MAX Advanced Real Estate. Cummings was present during the audit. At the conclusion of the audit, the following information regarding Cumming's management and control of the real estate trust account was determined:

1. Cummings was appointed as designated broker of RIO Enterprises DBA RE/MAX Advanced Real Estate ("the company") effective May 16, 2007. Cummings has been licensed with the company since October 2004. On or about October 19, 2007 Cummings opened a real estate trust account with Bank of America titled "RIO ENTERPRISES DBA REMAX ADVANCED REAL ESTATE" ("the trust account").
2. Cummings was notified on April 10, 2008 that Phillips would be conducting an office and trust account audit the next day. Cummings and Phillips agreed on a time for Phillips to arrive at the company.
3. During the audit, Phillips confirmed with a manager at the Bank of America branch where the trust account is maintained that the balance of the account was \$235.00.
4. A check of the transaction files that were available and reviewed confirmed that no purchase and sales contracts requiring funds to be held by the company were pending.
5. Cummings is the sole signatory for the trust account; Cummings also has a debit card for the trust account.

6. Bank statements for January, February and March 2008 were available during the audit. According to Cummings she gives the monthly statements, deposit slips and other trust account related documents to her accountant to maintain. Bank statements for November and December 2007 were not provided during the audit.

7. The January and March 2008 bank statements confirm that on two dates in January (18th and 25th) and on March 21st the trust account was overdrawn.

8. During the audit the accountant faxed a copy of a document titled "Advantage Real Estate Transaction by Account." This document lists a series of deposits and withdrawals for the trust account beginning with a deposit on October 19, 2007 to a withdrawal made on March 10, 2008. The balance on March 10, 2008 was \$700.00. This document does not include information necessary to comply with Chapter 400 Section 2(7) of the Maine Real Estate Commission Rules.

9. On October 19, 2007 a deposit in the amount of \$12,000.00 was the first deposit made to the trust account. Cummings was a disclosed dual agent in this transaction. The \$12,000.00 deposit was a portion of a \$20,000.00 earnest money deposit made as part of an executed purchase and sales agreement dated September 7, 2007. This transaction closed on December 19, 2007. The settlement statement for this transaction includes a \$20,000.00 earnest money deposit paid by the borrower and a \$10,000.00 brokerage commission paid to "ReMax Advanced Real Estate." No explanation or documentation was provided during the audit to show that Cummings took any steps to account for the "missing" \$8,000.00 at the time the \$12,000.00 deposit was made or any other time prior to the date of the closing. A notation on the company "Closing Information" for this transactions indicates that a check was issued from the trust account to Cummings in the amount of \$1,000.00 as partial payment of the commission after the closing. According to Cummings, she left the remaining \$9,000.00 in the trust account in part to replace the \$8,000.00 that was not deposited on October 19, 2007.

10. A series of withdrawals were made from the trust account for expenses unrelated to a real estate brokerage transaction beginning on November 23, 2007 and continuing to December 20, 2007. The series of withdrawals are as follows:

A. Debit card withdrawals totaling \$1,728.40 from November 23 to November 26, 2007 and on December 20, 2007. According to Cummings, she told her daughter she could use the debit card, stored in Cummings' car, to go shopping and her daughter picked up the wrong debit card.

B. Debit card withdrawal in the amount of \$412.00 dated December 18, 2007 to pay Cummings' Realtor Association membership dues.

C. Trust account check #1002, dated November 8, 2007, in the amount of \$1,256.00 issued to a property management company to pay the rent for the company's office space.

D. Trust account checks #1008, 1020 & 1021, dated December 18, 2007 and December 20, 2007, respectively, totaling \$2,556.00 were issued to an attorney as part of Cummings' costs to buy out a former co-owner of the company.

11. Trust account check #1023, dated January 4, 2008, in the amount of \$1,000.00 was issued to a licensee affiliated with Keller Williams Realty. According to Cummings, her buyer clients made an offer on property listed with Keller Williams Realty. At that time, the buyers did not have their checkbook with them and Cummings wrote a check for the deposit on their behalf. Cummings said she wrote the check from the trust account in error. The transaction did not close and the \$1,000.00 deposit was returned by Keller Williams Realty to Cummings. Cummings deposited the \$1,000.00 into the company operating account. Cummings has not replaced the \$1,000.00 withdrawn from the trust account.

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. Cummings acknowledges all the facts set forth above as true to the best of her knowledge and belief.
2. Cummings acknowledges that her conduct in depositing only \$12,000.00 of a total earnest money deposit of \$20,000.00 in the trust account constitutes a violation of 10 M.R.S.A. § 8003(5-A)(A)(4), 32 M.R.S.A. §§ 13067-A(1) & (5) and 13178.
3. Cummings acknowledges that her conduct in withdrawing or permitting to be withdrawn funds from the trust account for personal use between November 23, 2007 and December 20, 2007 constitutes a violation of 10 M.R.S.A. § 8003(5-A)(A)(4) & (5), 32 M.R.S.A. §§ 13067-A (1) & (5) and 13178, and Chapter 400 Section 2(5) of the Maine Real Estate Commission Rules.
4. Cummings acknowledges that her conduct in writing a check from the trust account in January 2008 in the amount of \$1,000.00 issued to Keller Williams Realty as an earnest money deposit for her buyer clients when \$1,000.00 had not been previously deposited in the trust account for this transaction constitutes a violation of 10 M.R.S.A. § 8003(5-A)(A)(4), 32 M.R.S.A. §§ 13067-A(1) and 13178.
5. Cummings acknowledges that she failed to open a trust account identified as a "real estate trust account" which constitutes a violation of 10 M.R.S.A. § 8003(5-A)(A)(4) & (5), 32 M.R.S.A. § 13178 and Chapter 400 Section 2(3) of the Maine Real Estate Commission Rules.
6. Cummings acknowledges that she failed to maintain records and supporting documents sufficient to verify the adequacy and proper use of the trust account which constitutes

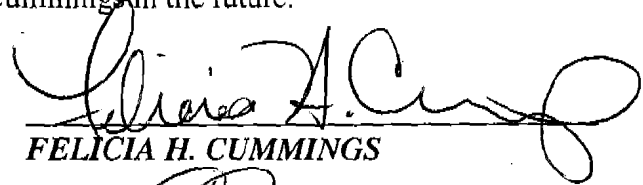
a violation of 10 M.R.S.A. § 8003(5-A)(A)(4) & (5), 32 M.R.S.A. § 13178 and Chapter 400 Sections 2(6), (7) & (8) of the Maine Real Estate Commission Rules.

7. Cummings acknowledges that her conduct as the trustee of funds belonging to others taken as a whole demonstrates incompetency, dishonesty, bad faith, and untrustworthiness, which constitutes a violation of 32 M.R.S.A. § 13067-A(2).

8. Cummings agrees to the immediate revocation of her real estate broker's license.

9. The Director and the Commission agree that no further agency or legal action will be initiated against Cummings by the Commission based upon the facts described herein, except that in the event that Cummings 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 Cummings 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 Cummings in the future.

Dated: 6/11/08


FELICIA H. CUMMINGS

Dated: 6/11/08

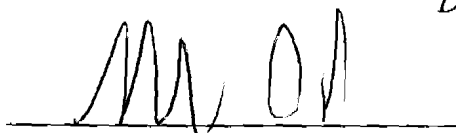

WITNESS

Dated: 6/18/08


CAROL J. LEIGHTON
Director, Maine Real Estate Commission

APPROVED

Dated: 6/19/08


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


JEFFREY S. MITCHELL
Chairman
Maine Real Estate Commission