

IN THE MATTER OF THE LICENSE OF)
)
CURT ANDREW DITTMAIER)
)
LICENSE NO.: PB20300569 (Active))



COMPLAINT

This complaint is brought against the Real Estate Sales Person license of Curt Andrew Dittmaier (“Respondent”), by the State of Indiana, by counsel, Deputy Attorney General Paul J. Schilling on behalf of the Office of the Attorney General (“Petitioner”) and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-7-2, Ind. Code art. 25-34.1, the Administrative Orders and Procedures Act, Ind. Code 4-21.5-3, and Ind. Code § 25-1-11-1. In support, Petitioner alleges and states:

FACTS

1. Respondent’s address on file with the Indiana Real Estate Commission (“Commission”) is 880 Shoreline Drive, Cicero, Indiana 46034. Respondent is a licensed principal broker holding license number PB20300569 (Active).

2. On or about January 7, 2011, Jeffrey Grizzle (“Grizzle”) entered into a Purchase Agreement for real property located at 2210 East Lynn Street, Anderson, Indiana 46016 (“2210 East Lynn Street”). The purchase price was Three Thousand Three Hundred Dollars (\$3300.00) with the full amount being remitted as earnest money. Grizzle remitted the earnest money to Respondent via cashier’s check #61360835.

3. On or around January 7, 2011, Nancy Collett ("Collett") of PNC Bank, the seller, states that PNC Bank received the Purchase Agreement for 2210 East Lynn Street with Grizzle as the buyer and a proposed closing date of January 18, 2011.

4. On or about February 3, 2011, Collett states that PNC Bank requested an extension of time from Grizzle to close.

5. On or about February 21, 2011, Grizzle signed a Mutual Release which stated that the earnest money would be returned to Grizzle.

6. On or about February 22, 2011, Collett states that Respondent told her that Grizzle was refusing to grant an extension of time to close. Collett further states that PNC Bank never received a Mutual Release from Respondent.

7. On November 20, 2011, Collett states that she received a Mutual Release directly from Grizzle, requesting that the Three Thousand Three Hundred dollars (\$3300.00) earnest money be returned.

8. On November 22, 2011, Collett states that she signed the Mutual Release and returned it to Respondent via certified mail. Collett states that she received confirmation that the document was received and signed for by "J. Collins." Collett states that despite having signed the Mutual Release, Respondent failed to return the earnest money to Grizzle.

9. On January 27, 2012, Collett filed a complaint with the Office of the Indiana Attorney General against Respondent.

COUNT I

10. Paragraphs one (1) through nine (9) are incorporated herein.

11. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-11-5(a)(3) in that Respondent's actions are in violation of 876 Ind. Admin. Code § 1-1-23,

which states in pertinent part, "The listing or selling principal brokers holding any earnest money are not required to make payment to the purchasers or sellers when a real estate transaction is not consummated unless the parties enter into a mutual release of the funds..."

COUNT II

12. Paragraphs one (1) through nine (9) are repeated and incorporated herein.


13. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-11-5(a)(4)(A), in that Respondent has continued to practice although Respondent has become unfit to practice due to professional incompetence when Respondent violated 876 IAC 1-1-23(B) by failing to release the earnest money upon being notified that a party to an offer to purchase intends not to perform. Specifically, Respondent failed to return the earnest money to Grizzle after both parties signed the Mutual Release.

WHEREFORE, Petitioner requests an order against the Respondent that:

1. Imposes the appropriate disciplinary sanctions;
2. Directs Respondent to pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund pursuant to Ind. Code § 4-6-14-10(b);
3. Directs Respondent to immediately pay all of the costs incurred in the prosecution of this case; and,
4. Provide any other relief the Commission deems just and proper under Ind. Code § 25-1-11-12.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No.: 1958-98


By: 

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of June, 2012, a true and correct copy of this Complaint was served upon the below-listed party via First Class U.S. Mail, postage prepaid.

Curt Andrew Dittmaier
880 Shoreline Drive
Cicero, IN 46034



Paul J. Schilling
Attorney No. 29475-49
Deputy Attorney General