

BEFORE THE
NEW HAMPSHIRE REAL ESTATE COMMISSION
CONCORD NH 03301

In the Matter of:

File No 2019-065
V. Robert Wichland
License No. 047414

PROPOSED SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of real estate the New Hampshire Real Estate Commission ("Commission") and V. Robert Wichland ("Respondent"), a real estate broker currently licensed in the State of New Hampshire, agree to resolve certain allegations of professional misconduct now pending before the Commission in accordance with the following terms and conditions:

1. The parties stipulate that the Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to NH RSA 331-A:28, RSA 331-A:29, I, and RSA 541-A:31, V, and if such proceeding were commenced, the following would occur:

2. The allegations would be that Respondent, a licensed New Hampshire real estate broker, unlawfully transferred escrow funds from escrow accounts without any right to do so in violation of NH RSA 331-A: 13 I-VII, committed unprofessional conduct in violation of NH RSA 331A: 26 XXIX, demonstrated untrustworthiness or incompetency as a broker in violation of NH RSA 331-A: 26 XXXVI, and otherwise committed other misconduct in violation of NH RSA 331-A.

3. The facts would be the following, and Respondent stipulates to the following facts:

- A. Respondent held a New Hampshire broker license (number 047414) since March 22, 2010.
- B. Respondent was one of three members of Bayside Realty, LLC, a Domestic Liability Company, registered with the New Hampshire Secretary of State's Office, with an address of Daniel Webster Highway, Meredith, NH 03253.
- C. Respondent was the Managing Broker for the Bayside Realty branch office located in Laconia, NH.
- D. Respondent was one of three members of Bayside Rentals, LLC, a Domestic Liability Company registered with the New Hampshire Secretary of State's office, with an address of 208 Daniel Webster Highway, Meredith, NH 03253.

- E. Respondent was one of three members of Bayside Referrals, LLC, a Domestic Liability Company registered with the New Hampshire Secretary of State's Office, with an address of Daniel Webster Highway, Meredith, NH 03253.
- F. Respondent was an active licensee in the State of New Hampshire since 1995.
- G. Respondent was a licensed real estate broker since 2010.
- H. At all relevant times alleged in the emergency suspension order, Respondent had access to escrow accounts held at Meredith Valley Savings Bank on behalf of RE/MAX Bayside Realty, LLC ("Bayside Realty") and Bayside Rentals, LLC ("Bayside Rentals").
- I. Bayside Realty and Bayside Rentals maintained escrow accounts at the Meredith Village Savings Bank for contractual deposits pursuant to NH RSA 331-A:13.
- J. Funds on fully executed contracts, for which Bayside Realty and Bayside Rentals agreed to hold in escrow, were deposited into the appropriate escrow accounts held at Meredith Valley Savings Bank.
- K. Between October 1, 2019 and November 7, 2019, Respondent, as a representative of Bayside Realty and Bayside Rentals, was one of the managers of the escrow accounts.

- L. Between October 1, 2019 and November 7, 2019, Respondent wrongfully transferred funds from the escrow accounts into Bayside operating accounts without having fully executed contracts to support the transfers in violation of NH RSA 331-A:13. The funds transferred to the operating accounts were strictly used for business purposes including normal ongoing expenses and payroll and no funds were used for personal purposes.
- M. Between November 8, 2019 and December 20, 2019, there were thirty-three (33) closings scheduled.
- N. Escrow funds were entrusted to Bayside Realty and Bayside Rentals to be held in an escrow account at Meredith Village Savings Bank pursuant to NH RSA 331-A:13.
- O. On or about November 15, 2019, Respondent provided \$126,144.96 to replenish the Bayside Realty escrow account.
- P. Closings scheduled between November 15, 2019 and December 20, 2019 had sufficient funds in escrow to conduct transfer of title on contracts scheduled to close.
- Q. On or about January 16, 2020, Respondent provided \$56,540.40 to replenish the Bayside Rental escrow account.
- R. There was no consumer activity for Bayside Rentals between October 1,

2019 and January 16, 2020 that generated any request for funding from the escrow account.

4. The allegations and facts set forth in paragraphs 2 and 3 would constitute grounds for the Commission to impose disciplinary sanctions, and Respondent acknowledges that the allegations and facts constitute grounds for the Commission to impose disciplinary sanctions for violations of NH RSA 331-A: 13 IV., NH RSA 331-A: 13 VII., NH RSA 331A: 26 XXIX, and NH RSA 331-A: 26 XXXVI against Respondent pursuant to the New Hampshire Real Estate Practice Act, NH RSA 331-A and New Hampshire Real Estate rules and regulations.

WHEREFORE, the Respondent consents to the Commission imposing the following discipline pursuant to RSA 331-A:28. I.:

- A. The Commission **REVOKES** and Respondent **RELINQUISHES** all rights and privileges to practice as a licensed broker in the State of New Hampshire.
- B. The Respondent shall pay a disciplinary fine in the amount of **Eight Thousand Dollars (\$8,000.00)** to the New Hampshire Real Estate Commission, payable to the **Treasurer State of New Hampshire at 25 Capitol St., Room 121, Concord, NH 03301** within thirty (30) days of the effective date of this Settlement Agreement and send a mailed a copy of the check to: the **Office of Public Licensure and Certification at 7 Eagle Sq., Concord, NH 03301 ATTN: Collin Phillips, Attorney I and Bobbie Mayo, Board Administrator.**

- C. The Commission may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Commission regarding Respondent's license. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct and shall serve as a separate and sufficient basis for further disciplinary action by the Commission.
- D. Respondent understands that should the Respondent seek licensure by this Commission, the Respondent must meet, and shall bear the burden of proving compliance with all the standard prerequisites then required by the Commission for new applicants, including all professional character requirements.
- E. Except as provided herein, this Settlement Agreement shall bar the commencement of further disciplinary action by the Commission based upon the misconduct described above. However, the Commission may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future and may also upon any future application that the Respondent may submit form the basis for the Commission to deny any such application and/or to hold a Show Cause Hearing at which the Respondent shall bear the burden to establish why the Commission should grant the Respondent a new license, with or without restrictions on it.
- F. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Commission as a public document.

- G. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
- H. The Commission agrees that in return for Respondent executing this *Settlement Agreement*, the Commission will not proceed with the formal adjudicatory process based upon the facts described herein.
- I. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
- J. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
- K. Respondent understands that the Commission must review and accept the terms of this *Settlement Agreement*. If the Commission rejects any portion of this settlement agreement, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Commission during its review of this *Settlement Agreement* has prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Commission.
- L. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront

and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein. This *Settlement Agreement* shall take effect as an Order of the Commission on the date it is signed by an authorized representative of the Commission.

FOR RESPONDENT

I, V. Robert Wichland, have reviewed the foregoing Settlement Agreement settling misconduct allegations pending against me and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this Settlement Agreement. Further, I, V. Robert Wichland, knowingly and freely waive the right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this Settlement Agreement.

Dated: August 20, 2021



V. Robert Wichland
Respondent

On this 20th day of August A.D. 2021 personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.

Maria Armano

Justice of the Peace/Notary Public
My commission expires:



FOR THE COMMISSION

Dated: 8/20, 2021

Joseph G. Shoemaker

Joseph G. Shoemaker, Director
Division of Technical Professions
NH Office of Professional Licensure and
Certification Authorized Representative of the NH
Real Estate Commission

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FILE NO. 2019-065

Page 10 of 10