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OPLC-FINANCE

SETTLEMENT AGREEMENT  
FILE NOS. 2022-015  
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**BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301**

In the Matter of:

Donna Marsh,  
License #009703

File No. 2022-015

**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 Donna Marsh (“Respondent”), an Associate 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. Pursuant to RSA 331-A:28, RSA 331-A:29, I, RSA 310-A:1-j, and RSA 541-A:31, V, the Commission has jurisdiction and authority to investigate and commence a disciplinary proceeding pertaining to allegations of professional misconduct committed by licensees of the Commission. Pursuant to RSA 310-A:1-k, III and RSA 541-A, V, the Commission may at any time before or during a disciplinary proceeding resolve allegations of professional misconduct by a written *Settlement Agreement* approved by the board and licensees provided the complainant has an opportunity to comment upon the terms of the *Settlement Agreement* before the *Settlement Agreement* has been executed.

2. On 01/30/1987, the Commission first granted Respondent license #009703. The Respondent's associate broker license is active and has an expiration date of 01/30/2023.
3. On or about 06/07/2019, the Commission received a written complaint from Lynn Marshall-Doss ("Complainant") alleging that the Respondent listed 42 Main Street, Brookline, NH 03033 without first obtaining a properly signed Exclusive Listing Agreement.
4. In response to the complaint, the Commission conducted an investigation and obtained information from various sources including obtaining a response from the Respondent pertaining to whether the Respondent's conduct constitutes unprofessional conduct pursuant to the Commission's statutes and rules.
5. Respondent stipulates that if a disciplinary proceeding were to take place, Hearing Counsel could prove that Respondent engaged in unprofessional conduct pursuant to RSA 331-A:26, XXXI according to the following facts:
  - a. Respondent has no history of prior misconduct or discipline.
  - b. On 05/07/2019, Lorraine Marshall and Maurice Marshall owned 42 Main Street, Brookline, NH 03033.
  - c. On 05/07/2019, Lorraine Marshall and Maurice Marshall signed a divorce decree which contained as a term:

The marital home located in Brookline, New Hampshire, shall be sold. The parties agree that Donna Marsh, a licensed real estate agent, shall list the property at fair market value.
  - d. On 05/08/2019, Lorraine Marshall and Respondent signed an Exclusive Listing Agreement for the property at 42 Main Street. Respondent forwarded the Exclusive Listing Agreement to Lorraine Marshall's attorney. Respondent was

informed by Lorraine Marshall's attorney that a copy of the Exclusive Listing Agreement was sent to Maurice Marshall's attorney for his signature. Respondent understood that Maurice Marshall's attorney had power of attorney to sign on his behalf.

- e. On 05/14/2019, Judge Mark Derby issued the Final Decree of Divorce in the matter of Lorraine Marshall and Maurice Marshall.
  - f. On 05/17/2019, Respondent was advised by Lorraine Marshall that she had been advised by her attorney that the divorce decree was finalized, a sign could be installed, and that the property could be listed without any further signatures.
  - g. On 05/18/2019, Respondent whether in error or otherwise activated the MLS listing for 42 Main Street, Brookline, NH 03033 and installed a yard arm.
  - h. At the time of listing, Maurice Marshall had not signed the Exclusive Listing Agreement.
  - i. On 05/18/2019, Lynn Marshall emailed Respondent requesting the yard arm be removed because Maurice Marshall had not signed the Exclusive Listing Agreement.
  - j. On 05/19/2019, Respondent immediately terminated the listing and removed the yard arm.
6. Respondent acknowledges that this conduct set forth in paragraph 5 constitutes grounds for the Commission to impose disciplinary sanctions against Respondent pursuant to the New Hampshire Real Estate Practice Act, NH RSA 331-A and the New Hampshire Real Estate rules and regulations.

7. WHEREFORE, the Respondent consents to the Commission imposing the following discipline pursuant to RSA 331-A:28, I and RSA 310-A:1-m:
- a. The Respondent shall pay a **DISCIPLINARY FINE** in the amount of two hundred and fifty dollars (\$250.00) to the New Hampshire Real Estate Commission. **Two hundred and fifty dollars (\$250.00) is due and payable** within thirty (30) days from the effective date of this *Settlement Agreement*. All payments shall be in the form of a check or money order made payable to the Treasurer, State of New Hampshire. The payment of the disciplinary fine shall be made separate from the payment of the costs of investigation and prosecution (if any). Each payment shall specify on the memo line whether the payment is for “REC Disciplinary Fine” or “REC Costs of Investigation and Prosecution.” Each payment shall be mailed with a printed copy of this *Settlement Agreement*. All payments shall be sent to:

ATTN: OPLC Finance and Real Estate Commission  
Office of Professional Licensure and Certification  
7 Eagle Sq.  
Concord, NH 03301
  - b. Respondent is required to meaningfully participate in a total of three (3) hours of Commission-approved **CONTINUING EDUCATION** course on topic of ethics. The courses must be in a live format either in-person or via video conference. These hours shall be in addition to the hours required by the Commission for renewal of licensure and shall be completed within ninety (90) days from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these required courses, Respondent shall notify the Commission and

provide proof of completion of the course hours to the Commission and a **Letter of Reflection**. The **Letter of Reflection** shall be in the Respondent's own words and shall demonstrate that the Respondent has achieved a satisfactory degree of skill and understanding in the areas of deficiency as described in the above stated facts.

- i. The Letter of Reflection at a minimum shall apply the content learned during the course to the Respondent's conduct described in the facts above and reflect on how the conduct may have been changed.
- ii. Such Letter of Reflection shall be confidential and exempt from disclosure under RSA 91-A.
- iii. Within forty-five (45) days of receipt, the Commission shall notify the Respondent whether or not the Letter of Reflection demonstrates a satisfactory degree of skill and understanding in the area(s) of deficiency. If the Commission fails to timely notify the Respondent, the Letter of Reflection shall be deemed as satisfactory.
- iv. If the Commission finds the Letter of Reflection fails to demonstrate a satisfactory degree of skill and understanding, the Commission may order the Respondent to appear at a non-disciplinary show cause hearing to answer as to why the letter failed to demonstrate sufficient skill and understanding and to address the Commission's concerns. The Commission may require the Respondent to take additional continuing education not to exceed the above stated hours.

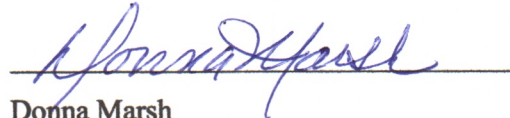
8. The Commission may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Commission regarding Respondent's license. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct and shall serve as a separate and sufficient basis for further disciplinary action by the Commission.
9. 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.
10. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Commission as a public document.
11. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to Respondent other than those terms and conditions expressly stated herein.
12. The Commission agrees that in return for Respondent's executing this *Settlement Agreement*, the Commission will not proceed with the formal adjudicatory process based upon the facts described herein.
13. Respondent understands that Respondent's action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
14. Respondent has had the opportunity to seek and obtain the advice of an attorney of Respondent's choosing in connection with his decision to enter into this *Settlement Agreement*.

15. Respondent understands that the Commission must review and accept the terms of this *Settlement Agreement*. If the Commission rejects any portion, 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 Respondent's right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Commission.
16. Respondent is not under the influence of any drugs or alcohol and is otherwise of sound mind at the time the Respondent signs this agreement.
17. Respondent certifies that Respondent has read this document titled *Settlement Agreement*. Respondent understands that Respondent has the right to a formal adjudicatory hearing concerning this matter and that at said hearing Respondent would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on Respondent's 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*, Respondent 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.

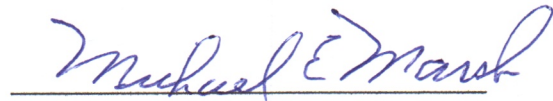
**FOR RESPONDENT**

I, Donna Marsh, 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, Donna Marsh, 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: 12/19, 20 22



Donna Marsh  
Respondent



Witness (Signature)

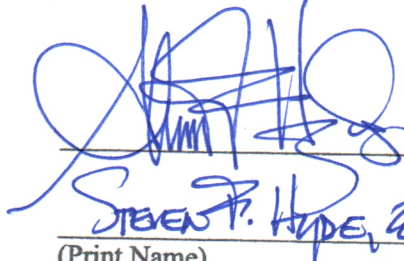
MICHAEL E MARSH

Witness (Print Name)



FOR THE COMMISSION

Dated: December 20<sup>th</sup>, 2022

  
\_\_\_\_\_  
STEVEN P. HYDE, Esq., Chairman

(Print Name)

~~NH Office of Professional Licensure and  
Certification~~

~~Authorized Representative of the~~ NH Real Estate  
Commission