

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER REC-CO23- 008
)	(REC File No. 10015929)
Complainant,)	
)	
v.)	
)	CONSENT ORDER
JOSEPH GILMARTIN, licensed New Jersey real)	
estate broker (Ref. No. 8530892) and TARA)	
PASQUARELLO, licensed New Jersey real estate)	
salesperson (Ref. No. 2075405))	
)	
Respondents.)	

THIS MATTER having been opened to the New Jersey Real Estate Commission (the "Commission") in the Department of Banking and Insurance, State of New Jersey, upon information that Joseph Gilmartin ("Gilmartin"), a licensed real estate broker and Tara Pasquarello ("Pasquarello"), a licensed real estate salesperson (collectively, the "Respondents") may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS the Respondents are subject to the provisions of the New Jersey Real Estate License Act, N.J.S.A. 45:15-1 to -42 and corresponding regulations, N.J.A.C. 11:5-1.1 to -12.18; and

WHEREAS the Commission staff alleges that the Respondents have violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS the Respondents acknowledge that they are aware of their right to a plenary hearing on any violations which the Commission may allege they have committed and of their

right to receive the advice of counsel on matters to which this Consent Order pertains, they are knowingly and voluntarily waiving the right to a hearing; and

WHEREAS in lieu of instituting more formal proceedings, the Commission and the Respondents desire to resolve this matter consensually, based upon the terms set forth herein; and

WHEREAS the Commission and the Respondents, in order to avoid the costs and uncertainty of further litigation and to resolve the matter with finality, hereby agree to this Consent Order, fully disposing of all the issues in controversy in this matter with prejudice; and

WHEREAS the terms of this Consent Order were approved by the Commission at a regular meeting on November 14, 2023; and

IT APPEARING that the matter against the Respondents should be resolved upon the consent of the parties, without resorting to a formal hearing on the aforementioned violations, and further good cause appearing;

NOW, THEREFORE, IT IS on this 14th day of November, 2023

ORDERED AND AGREED that the Respondents admit the following facts:

1. Gilmartin is licensed as a New Jersey real estate broker and acts as broker of record for Gilmartin & Co, Inc., d/b/a Century 21 Gilmartin & Co ("C21 G&C"), licensed New Jersey real estate broker, whose main office is located at 1382 Lafayette Street, P.O. Box 415, Cape May, New Jersey 08204; and

2. Pasquarello is licensed as a New Jersey real estate salesperson, who was first licensed on January 17, 2020. At all relevant times herein, Pasquarello's license was associated with C21 G&C; and

3. At all relevant times herein, C21 G&C was under contract to provide brokerage services in connection with seasonal short-term rentals of the real property located at 480 West Perry Street, Cape May, New Jersey 08204 (the "Property"); and

4. The Property is part of a duplex consisting of one unit occupied by the owners and another unit used for short-term rentals; and

5. At all relevant times herein, Pasquarello was the agent responsible for performing brokerage services on behalf of C21 G&C in connection with rental transactions concerning the Property; and

6. The Respondents marketed the Property for rent through Airbnb, an online marketplace for short-term real estate rentals; and

7. The Airbnb advertisements included a written description of the premises and photographs of the Property; and

8. On or about January 5, 2022, consumer Maria Vandergrift (the "Tenant") booked a weekend rental of the Property for the dates June 16 through 19, 2022 through the Airbnb website; and

9. The owners of the Property began renovations on or about January 17, 2022, which resulted in material changes to the premises; and

10. On or about February 17, 2022, the Tenant and the owner of the Property entered into a written agreement, prepared by the Respondents, for the rental of the Property from June 16, 2022 until June 19, 2022; and

11. The written agreement states that the Respondents are acting in the capacity of transaction broker in connection with the rental transaction; and

12. The renovations to the Property were completed on or about April 5, 2022; and

13. As part of the renovations, the front entrance of the Property was removed and relocated to the rear of the premises rendering the front porch inaccessible to the Tenant; and

14. The renovations resulted in a reduction in the Property's total square footage from approximately 1200 square feet to 1100 square feet; and

15. The Respondents were aware that renovations to the Property were underway prior to the commencement of the lease term; and

16. The Respondents never inquired of the owners of the Property as to any material changes to the physical condition of the Property resulting from the renovations; and

17. The Respondents never visually inspected the premises to ascertain the physical condition of the Property after the completion of the renovations; and

18. The Tenants were never notified that there were any material changes made to the Property from the condition as advertised at the time the Tenants booked the rental through the Airbnb website; and

19. Upon receiving complaints from the Tenants, in an effort to resolve the dispute, the Respondents offered to move the Tenants to a different Property for their weekend rental, which the Tenants refused; and

20. The Respondents updated the information and photographs in their advertisements on the Airbnb website on June 25, 2022, which was after the conclusion of the Tenant's stay at the Property; and it is further

ORDERED AND AGREED that based on the above facts, the Respondents admit to the following:

1. By failing to make inquiries to the owners of the Property and failing to conduct any visual inspection of the premises prior to the commencement of the Tenants' lease term, as set

forth more fully above, the Respondents failed to make reasonable efforts to ascertain material information concerning the physical condition of the Property in violation of N.J.A.C. 11:5-6.4(b); and

2. The Respondents failed to disclose the material changes made to the physical condition of Property as a result of the renovations to the Tenants, which a reasonable effort to ascertain such information would have revealed, in violation of N.J.A.C. 11:5-6.4(c); and

3. Gilmartin, as broker of record of C21 G&C is responsible for the actions of any person licensed with C21 G&C that are taken in pursuit of brokerage business pursuant to N.J.A.C. 11:5-4.2(a)(1), and failed to adequately oversee Pasquarello's activity as described above.

Based on the above, it is hereby:

ORDERED AND AGREED that Gilmartin shall pay a fine in the amount of two thousand dollars (\$2,000). The fine shall be paid in full within thirty (30) days of the full execution of this Consent Order. The fine shall be payable by certified check, cashier's check or money order made payable to the "State of New Jersey" and sent to the Division of Anti-Fraud Compliance/Collection Section, Department of Banking and Insurance, P.O. Box 325, Trenton, New Jersey, 08625. All unpaid fines will be referred for collection and may result in a lien/judgment being placed on property, interception of state income tax refunds through the Set Off of Individual Liability (SOIL) program in the Division of Taxation and/or levy on bank accounts; and it is further

ORDERED AND AGREED that Pasquarello shall pay a fine in the amount of five hundred dollars (\$500). The fine shall be paid in full within thirty (30) days of the full execution of this Consent Order. The fine shall be payable by certified check, cashier's check or money order made payable to the "State of New Jersey" and sent to the Division of Anti-Fraud Compliance/Collection Section, Department of Banking and Insurance, P.O. Box 325, Trenton, New Jersey, 08625. All

unpaid fines will be referred for collection and may result in a lien/judgment being placed on property, interception of state income tax refunds through the Set Off of Individual Liability (SOIL) program in the Division of Taxation and/or levy on bank accounts; and it is further

ORDERED AND AGREED that each Respondent shall complete three (3) hours of continuing education coursework in the core topic area of "disclosure." Proof of completion of the same shall be submitted to Commission staff within ninety (90) days of the full execution of this Consent Order. Completion of the education prescribed herein shall not count towards the ordinary continuing education requirement for biennial license renewal; and it is further

ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10015929. The Commission reserves the right to take further administrative action if it obtains any new information indicating that the Respondents may have violated the New Jersey Real Estate License Act, N.J.S.A. 45:15-1 to -42 and corresponding regulations, N.J.A.C. 11:5-1.1 to -12.18; and it is further

ORDERED AND AGREED that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and it is further

ORDERED AND AGREED that by signing below, the Respondents confirm that:

- a. They are not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair their ability to knowingly and voluntarily execute this Consent Order; and
- b. They are entering into this agreement knowingly and voluntarily, that they have not been subject to any coercion or threats regarding the execution of this Consent Order and that other than the other terms set forth above, no promises,

representations or inducements have been made to them to secure their acceptance
of the provisions of this Consent Order.

Dated: 2/1, 2024
Eugenia K. Bonilla
President
New Jersey Real Estate Commission

Dated: 10/31, 2023
Joseph Gilmartin
Respondent

Subscribed and sworn to before me on this 31st day of Oct, 2023
Notary Public

Dated: 10/28, 2023
Tara Pasquarello
Respondent

JOSEPH T. GILMARTIN
Notary Public of New Jersey
My Commission Expires on
December 27, 2023

Subscribed and sworn to before me on this 31st day of October, 2023

Notary Public

JR 2023 Gilmartin CO REC/Enforcement