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FINAL ORDER OF DETERMINATION

This is the consolidation of two related, albeit separate, matters pending before the Commission.

a. Denial of Reinstatement

On or about June 27, 2017, Respondent Lenoff was first licensed as a real estate salesperson in the State of New Jersey, and his license was then held with Jill Guzman Realty, Inc. In October 2018, Lenoff transferred his license to Brewster Realty.

On August 7, 2019, a criminal summons was issued from the Elizabeth Municipal Court against Lenoff alleging that in June 2018 Lenoff obtained property of another by Theft by Deception, in the 4th Degree, in violation of N.J.S.A 2C:20-4.

On or about August 30, 2019, Brewster Realty terminated Lenoff and his license then became inactive.

On or about November 14, 2019, Lenoff submitted an application for reinstatement and transfer of his salesperson license to Elite Intriago Realty, LLC ("Elite"). On his application to transfer his license, Lenoff honestly answered "Yes" to Qualifying Question No. 2 which asked whether there was a criminal complaint presently pending against him.

On or about November 29, 2019, the Real Estate Commission ("REC") staff denied Lenoff's application and his license thereafter remained inactive. The denial was based on Lenoff having a pending criminal charge, specifically Theft by Deception, in violation of N.J.S.A 2C:20-4, and his failure to demonstrate good moral character as required by N.J.S.A. 45:15-9(a).

On or about January 9, 2020, Lenoff appealed the denial of his application for reinstatement of his license.

b. Order to Show Cause

The REC subsequently initiated a second matter against Lenoff and Intriago on its own motion through service of an Order To Show Cause (“OTSC”) dated March 8, 2023, pursuant to N.J.S.A. 45:15-17, 45:15-17.1, 45:15-18 and N.J.A.C. 11:5-1.1.

The OTSC alleges that Respondent Lenoff committed the following violations of the New Jersey Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 to -42 (“Act”):

Lenoff’s guilty plea to stalking in the 4th degree demonstrates that he lacks the good moral character required of all real estate licensees, pursuant to N.J.S.A. 45:15-9(a);²

Lenoff continually engaged in real estate business and activity during the period of August 30, 2019 through February 16, 2021, when he knew or should have known that his license was inactive as of August 30, 2019, in violation of N.J.S.A. 45:15-17(e); and

Lenoff, as an inactive real estate licensee and the managing member of an entity known as Luzzato LLC (“Luzzato”), knew or should have known that Luzzato was engaged in real estate business and activity, and its advertising activities were false and misleading and in violation of N.J.A.C. 11:5-6.1(r).

The OTSC further alleges that Respondent Intriago committed the following violations of the Act:

Intriago knew or should have known that the real license of Lenoff was inactive as of August 30, 2019, and failed to ensure that Lenoff did not engage in real estate activities under the auspices of Elite Intriago Realty, Inc., in violation of N.J.A.C. 11:5-4.2(a)(1) and N.J.S.A. 45:15-17(e).

In response to the OTSC, Respondent Lenoff filed an Answer dated April 17, 2023, and Respondent Intriago filed an Answer dated March 17, 2023, wherein both Respondents explained their actions and denied committing any violations.

² On or about September 1, 2020, Lenoff was arrested and charged with stalking, harassment and terroristic threats; on or about January 6, 2021, Lenoff pled guilty to one count of Stalking, in the 4th Degree, in violation of N.J.S.A. 2C:12-10(b), and was sentenced to 3 years of probation and a restraining order, pursuant to N.J.S.A. 2C:10.1, was imposed on Lenoff.

On May 23, 2023, the Commission reviewed the pleadings and deemed the OTSC matter contested and directed that a hearing be scheduled. A hearing before the Commission was conducted on November 14, 2023 to address both the appeal of the denial of reinstatement and the OTSC.

c. Documentary Evidence

At the hearing, the following documents were submitted by the REC and entered into evidence, without objection, marked as Exhibits S-1 through S-42:

- S-1 New Jersey Department of Banking and Insurance, Real Estate Commission, License Certification with History for Joshua Lenoff, dated October 13, 2022;
- S-2 Lenoff Application to Transfer License, dated November 14, 2019;
- S-3 Denial of Application to Transfer License, dated November 29, 2019;
- S-4 Appeal Letter, dated January 9, 2020;
- S-5 Letter requesting reinstatement of license, undated;
- S-6 Letter explaining theft charge. dated January 9, 2020;
- S-7 NJ State Police Arrest Notification, dated August 21, 2019;
- S-8 Complaint Summons 2004-S-2019-002384, State of New Jersey v. Lenoff, dated August 7, 2019;
- S-9 Civil Complaint, Lenoff v. Jill Guzman Realty, Inc., dated July 24, 2019;
- S-10 Answer, Lenoff v. Jill Guzman Realty, Inc., dated August 30, 2019;
- S-11 Letter enclosing check from Jorge Batista, Esq., dated November 14, 2019;
- S-12 Letter from Wilmer Intriago in support of Lenoff's appeal, dated January 2020;
- S-13 Character Reference Letters in support of Lenoff's appeal;
- S-14 Resume of Joshua Lenoff;
- S-15 Emails from Lenoff to Clark Masi, dated November 26-27, 2019, re: theft charges;

- S-16 Emails from Lenoff to Clark Masi, dated December 10, 2020, re: plea;
- S-17 Statement of Lenoff, undated;
- S-18 Statement of Lenoff against Jill Guzman, undated;
- S-19 Plea Form of Lenoff , dated October 30, 2020;
- S-20 Waiver of Indictment, State of New Jersey v. Lenoff, dated November 2, 2020;
- S-21 Judgment of Conviction, State of New Jersey v. Lenoff, dated January 6, 2021;
- S-22 Letter from William T. Harth, Esq. to Lenoff from, dated January 18, 2021;
- S-23 Complaint Information Sheet submitted by Jeffrey Rosenberg, dated May 18, 2020;
- S-24 Email from Tonya Daxl to Jeffrey Rosenberg, re: Incident Involving Joshua Lenoff, dated May 19, 2020;
- S-25 Email from Lenoff to Tonya Daxl, dated May 17, 2020, re: signed disclosure for 83 Hamilton Street, East Orange;
- S-26 MLS Listing 83 Hamilton Street, East Orange;
- S-27 Email from SupraShowings to Jeffrey Rosenberg, re: End of Showing Notification, dated May 18, 2020,;
- S-28 Supra start and end of showing on 83 Hamilton Street, East Orange;
- S-29 Text message from Tonya Daxl to Wilmer Intrigo, re: Joshual Lenoff;
- S-30 Email from Tonya Daxl to Jeffrey Rosenberg, re: Recollection of Conversation with Wilmer Intrigo, undated;
- S-31 Email from Tonya Daxl to Wilmer Intrigo, re: 83 Hamilton St. East Orange NJ Offer, dated May 21, 2020;
- S-32 Email from Tonya Daxl to Wilmer Intrigo, re: 83 Hamilton Addendum, dated May 21, 2020;
- S-33 Sales Contract, dated May 19, 2020;
- S-34 Email from Tonya Daxl to Wilmer Intrigo, re: 83 Hamilton Addendum, dated May 22, 2020;
- S-35 Statement of William Intrigo, undated;

- S-36 Email from Joshua Lenoff to Keith Hackett, re: Complaint, dated January 19, 2021;
- S-37 Email from Joshua Lenoff to Keith Hackett, re: Additional Question, dated January 20, 2021;
- S-38 Email from Joshua Lenoff to Keith Hackett, re: Archive Key Report (Supra Support), dated February 17, 2021;
- S-39 Certificate of Formation for Luzzato, LLC, dated June 5, 2018;
- S-40 Luzzato, LLC website screenshots taken February 2, 2023;
- S-41 Email from Joshua Lenoff to Keith Hackett, re: Additional Information Requested, dated July 15, 2021; and
- S-42 Luzzato, LLC website screenshots taken November 9, 2021.

TESTIMONY OF THE WITNESSES

Tonya Daxl

Tonya Daxl (“Daxl”) testified on behalf of the REC. Daxl testify that she was a licensed mortgage loan originator, and since February 2017 held a real estate salesperson license. She stated that she was the listing agent for the property at 83 Hamilton Street, East Orange, New Jersey (“Hamilton Street”). Daxl testified that the Hamilton Street property was listed on the Garden State MLS website, which instructed real estate agents interested in showing the property must provide 24 hours’ notice and execute a “Hold Harmless and Release Agreement” (“Hold Harmless”).

Daxl testified that on the evening of May 17, 2020, she a received an email from Luzzato, LLC sent by Lenoff. She stated that attached to the email was a signed Hold Harmless, and that Lenoff advised that he intended to show the property the next day, May 18, 2020. Daxl stated that she did not review the email on May 17, 2020, but did so on May 18, 2020. She stated that upon reviewing the email and attachment, she realized that Lenoff had not complied with the listing

instructions. In addition, Daxl noted that Lenoff's signature on behalf of Luzzato, LLC seemed to be incorrect.

Daxl testified that on May 18, 2020, she received a notification from Supra³ on her cell phone advising that someone (no name was provided) had opened the electronic lockbox on the Hamilton Street property. She stated that through Supra, she learned that Lenoff had opened the lockbox and had access to the property for approximately twenty minutes. Daxl explained that any person with a valid Supra account can open the electronic lockbox. Daxl further explained that according to her understanding, Supra registers a person's access to a property from the moment the time the key is released from the lockbox and until the moment the key is returned to the lockbox.

Following the Supra notification, Daxl testified that she did a licensee search on Lenoff through the Commission's website, which is her customary practice whenever she receives a notification from Supra that someone had accessed a property that she has listed for sale. Daxl stated that the Commission's website indicated that Lenoff's real estate license was inactive under Brewster Realty, and it appeared that Lenoff's signature on the Commission website did not match the signature in the Hold Harmless Agreement. Daxl stated that she also did an internet search for Luzzato, LLC and found it was a "one-stop" shop organization.

Daxl stated that she then contacted her broker and advised that Lenoff had shown her listed property, that his license was inactive, that the signature he provided did not match the one on the Commission's website, and that Luzzato, LLC was a "one-stop" organization. Daxl stated that her broker directed her to submit a written timeline of the events involving Lenoff, and instructed she

³ The Commission notes that the "Supra" refers to the Supra software which allows Supra account holders, among other things, to access properties for sale by using their smartphones to open lockboxes using an electronic PIN.

inform her clients of the situation and advise they go to the property to assess its physical condition. Daxl testified that she followed all the instructions provided by her broker.

Then, Daxl stated she contacted Lenoff who acknowledged that his real estate license was, in fact, inactive.

In addition, Daxl testified that she contacted Intriago, who advised that he was holding Lenoff's inactive license and that that Lenoff was not an agent with Elite Intriago Realty. Daxl testified that Intriago said he would "stop" Lenoff and take over the clients who had been shown the Hamilton Street property. Daxl testified that Intriago, in fact, then submitted a written offer on behalf of said clients, which was not accepted by the sellers as they accepted a higher offer from another buyer.

Keith Hackett

Keith Hackett ("Hackett") testified on behalf of the REC. Hackett stated that he has been a REC investigator for ten years, and was assigned to investigate the complaint filed with the REC against Lenoff by Jeff Rosenberg, Daxl's broker.

Hackett testified that having an active Supra account does not mean that the person has an active real estate license. Hackett stated that he is unaware whether Supra has any mechanism to know if a licensee is inactive, so they can then deactivate that licensee's Supra account. In addition, Hackett stated that he had no information regarding Lenoff's access to the MLS during the time period that his license was inactive, and was unaware whether the MLS system had any mechanism to know if a licensee is inactive or revoked. Hackett noted that the REC has no regulatory jurisdiction over Supra or MLS, and that these are private entities with no reporting responsibilities to the REC.

Hackett testified that he contacted Lenoff as part of his investigation. Hackett stated that upon his request, Lenoff provided a copy of his Supra records which gave a detailed log of all the activity on Lenoff's account. Hackett stated that these records confirmed that there were at least thirty-two (32) instances when Lenoff had used his Supra access, including on May 18, 2020. Hackett noted that at the time Lenoff used Supra on May 18, 2020, it had been a significant amount of time that his license had been inactive. Hackett acknowledged that Lenoff responded timely to all investigation questions and his answers were responsive.

Hackett testified that as part of his investigation, he also researched the website for Luzzato, LLC which indicated that the company was licensed in real estate, among other professions. Hackett stated that Luzzato, LLC was not a licensed real estate office in New Jersey, and therefore cannot list properties for sale.

Hackett testified that he also contacted Intriago. Hackett stated that Intriago submitted a written statement explaining his actions in this matter, and that Intriago has no record of any prior violations with the REC.

Joshua Lenoff

Respondent Lenoff testified on his own behalf. Lenoff testified that on his application to transfer his license, he disclosed that he had a pending criminal complaint. He explained that the complaint was filed by his first broker, Ms. Guzman, alleging theft. He testified that the theft charge was eventually dismissed, and he pled guilty to stalking in the Fourth Degree, in the criminal matter involving Ms. Guzman. Lenoff testified that he made harassing telephone calls to Ms. Guzman on a weekly basis, accusing Ms. Guzman of various wrongdoings, and engaging in other harassing conduct that he described as "childish." Lenoff testified that he is still on probation for his stalking conviction and has complied with all the conditions of his probation.

Lenoff testified that his company, Luzzato, LLC, is a “concierge” service that holds no professional licenses itself, but that its members hold licenses in various professions, including real estate, mortgages and insurance. Lenoff stated that the members of Luzzato, LLC included himself, his mother, father, niece and nephew, and that his mother and niece held real estate licenses sometime after 2020. Lenoff stated that if a member in the company held a real estate license, they would list properties through their employing broker and would get paid a commission which would eventually go to Luzzato, LLC. He noted that he was the managing member of the company, but is now just a minority member. Furthermore, Lenoff stated that Luzzato, LLC was not a licensed real estate brokerage, noting that the company’s website did list properties for sale by members with real estate licenses that were also listed on their own brokerage website. He stated that the company’s website could be accessed by the public. Lenoff stated that he had hired someone to develop the company’s website, but that he was responsible for the information on the website, some of which was inaccurate. Lenoff stated that the real estate listings on the company website were just pictures of prototypes of properties that possibly could be on the market, but were not actual listings under contract. He stated that the company’s website remained accessible to public even after he was aware that his license was inactive.

Lenoff testified that in the September 2019, he left the employment of Brewster Realty because he wanted a change of venue and gave his employing broker verbal notice of his decision to leave. Lenoff stated that sometime thereafter he learned that his license was inactive.

Lenoff testified that in November 2019 he filed an application with the REC to reinstate and/or transfer his license to another broker. Lenoff stated that the REC subsequently rejected his application and he then filed an appeal of that decision in February 2020.

Lenoff testified that after learning that his license was inactive, he contacted the REC several times and received conflicting information about the status of his license. Lenoff admitted however that the REC staff never advised him that his license had been reactivated, and eventually did confirm to him that his license was indeed inactive.

Lenoff testified that despite knowing that his license was inactive, he nevertheless continued showing homes to clients because he believed that the REC's records were inaccurate, perhaps due to Covid, given that he was able to renew his SUPRA and MLS accounts and these accounts remained active in 2020.

Lenoff testified that on May 18, 2020 he was contacted by Daxl, who advised him that his license was inactive according to the REC website. Lenoff testified that thereafter he still used his SUPRA three times on May 26, 2020.

Lenoff testified that he participates in community service by serving on the Board of the Finance Committee of his Temple in Edison, New Jersey.

Lenoff stated that he has no knowledge of having submitted to the REC the letter purportedly authored by Intriago and Elite Intriago Realty which was part of his appeal packet. Further, Lenoff testified that he was never employed by Intriago and Intriago never requested him to show any properties. Lenoff stated that after Intriago spoke with Daxl, Intriago then contacted him and demanded that he cease showing any more properties. Lenoff stated that he should not have used Intriago's name or company in connection with showing the Hamilton Street property.

William Intriago

Respondent Intriago testified on his own behalf. Intriago testified that he obtained a salesperson's license in February 2005, and a broker's license in February 2017, at which time he became the broker of record for Elite Intriago Realty.

Intriago acknowledged that he had submitted a written statement to the REC investigator regarding this matter, and that Lenoff never advised him that his license was inactive or on hold. Intriago stated that he did not prepare nor sign the letter on behalf of Elite Intriago Realty that was submitted as part of Lenoff's appeal.

Intriago testified that he first learned that Lenoff was showing properties when he received a call from Daxl. Intriago stated that he advised Daxl that Lenoff was not an agent with his office and had no knowledge that Lenoff had submitted an offer under his name and company. Intriago stated that he had no prior knowledge that Lenoff had made the appointment to show the Hamilton Street property, and that he never personally met with Sara Thatcher, and that he did not draft the contract offer submitted by Lenoff on behalf of Thatcher. Intriago stated that he advised Daxl that since Lenoff was inactive, he would "takeover" the transaction from Lenoff. Intriago stated that he resubmitted to Daxl the same offer previously submitted by Lenoff.

FINDINGS OF FACT

Based on the pleadings, the testimony of the witnesses, and the documentary evidence duly admitted into the record, the Commission makes the following findings of fact:

a. Regarding Respondent Lenoff

1. On or about June 27, 2017, Respondent Lenoff was first licensed as a real estate salesperson in the State of New Jersey, and his license was initial held with Jill Guzman Realty, Inc. and Jill Guzman was the broker of record.
2. In October 2018, Lenoff transferred his license to Brewster Realty.
3. On August 7, 2019, a criminal summons was issued from the Elizabeth Municipal Court, Union County, against Lenoff, alleging that in June 2018 Lenoff unlawfully obtained property valued at close to \$15,000 belonging to Jill Guzman by Theft by Deception, in the 4th Degree, in violation of N.J.S.A 2C:20-4.
4. On or about August 21, 2019, Lenoff was arraigned on charges of Theft by Deception, in the 4th Degree, in violation of N.J.S.A 2C:20-4.
5. On or about August 30, 2019, Brewster Realty terminated Lenoff.
6. On or about August 30, 2019, Lenoff's salesperson license became inactive, and his license remained inactive at all times thereafter.
7. On or before November 14, 2019 and all times thereafter, Lenoff knew or should have known that his real estate license was deemed inactive by the REC and he could not engage in any real estate business or activities in New Jersey.
8. On or about November 14, 2019, Lenoff submitted an application for reinstatement of his salesperson license and to transfer of said license to Elite Intriago Realty, LLC ("Elite").

9. On his application to transfer his license, Lenoff honestly answered "Yes" to Qualifying Question No. 2 which disclosed that there was a criminal complaint then pending against him.
10. By letter dated November 29, 2019, the REC staff advised Lenoff that his application for licensure was denied because of his pending criminal charge, specifically Theft by Deception, in violation of N.J.S.A 2C:20-4, and also his failure to demonstrate good moral character, as required by N.J.S.A. 45:15-9.
11. On or about January 9, 2020, Lenoff filed his appeal of the denial of licensure and submitted to the REC various documentation in support of his appeal.
12. As part of his appeal packet, Lenoff submitted a "Letter requesting reinstatement of license" wherein he acknowledged that "[n]ow my license is suspended."
13. As part of his appeal packet, Lenoff also submitted a "Letter from my present broker," which was dated "January 2020." It was purportedly from "Elite Intriago Realty, LLC" but was not on its business letterhead, and had a signature of "Wilmer Intriago."
14. On May 17, 2020, Lenoff, on behalf of Luzzato, LLC, emailed licensee Tonya Daxl, the listing agent for 83 Hamilton Street, East Orange, New Jersey, and advised that he intended to show said property on May 18, 2020. On May 17th, Lenoff also submitted to Daxl an executed Hold Harmless Agreement.
15. On May 18, 2020, Lenoff, along with Sara Thatcher, a potential buyer, entered the Hamilton Street property after obtaining the key by using his Supra to open the lockbox. Lenoff was in the property for approximately 20 minutes.
16. On May 26, 2020, Lenoff, used his Supra account three times to open lockboxes for the purpose of entering and/or showing other properties for sale.

17. Between September 1, 2019 and May 26, 2020, Lenoff used his Supra account 32 times to open lockboxes for the purpose of entering and/or showing properties for sale.

b. Regarding Respondent Lenoff and Luzzato, LLC

18. On or about June 5, 2018, Luzzato, LLC was formed under the N.J. Limited Liability Company Act, and at all relevant times thereafter, Lenoff was the managing member or member of said entity.

19. Luzzato, LLC was never licensed as a real estate agency in New Jersey.

20. At all relevant times since June 2018, at Lenoff's direction or with his knowledge, Luzzato, LLC held itself out to the public as being a licensed real estate agency, and also operated a website accessible to the public that either listed specific properties for sale and/or solicited the public to contact Luzzato LLC regarding possible opportunities to sell or purchase real estate.

c. Regarding Respondent Intriago

21. At all relevant times, Respondent Intriago was the broker of record of Elite Intriago Realty.

22. Respondent Intriago gave credible testimony that he did not sign nor submit the broker letter dated "January 2020" which Lenoff included in his appeal packet.

23. Respondent Intriago also gave credible testimony that he never employed or otherwise engaged Lenoff to work as an agent at Elite Intriago Realty.

24. Respondent Intriago also gave credible testimony that he never requested nor directed Lenoff to show the Hamilton Street property to any person.

25. Respondent Intriago also gave credible testimony that prior to May 18, 2020, he had no knowledge of Lenoff's intention to show the Hamilton Street property to Sara Thatcher, and had no prior business dealings with Sara Thatcher.

26. Respondent Intriago also gave credible testimony that he had agreed to represent Sara Thatcher and resubmitted Lenoff's offer on the Hamilton Street property on behalf of Thatcher only because Lenoff was unlicensed and to preserve the reputation of himself and Elite Intriago Realty.

CONCLUSIONS OF LAW

In light of the above findings of fact, the Commission makes the following conclusions of law with regard to the denial of reinstatement of licensure and the allegations contained in the OTSC as summarized above:

1. The denial of Respondent Lenoff's application to reinstate his real estate salesperson license is **AFFIRMED** given that Lenoff's guilty plea to stalking in the 4th degree demonstrates that he lacks the good moral character required of all real estate licensees, pursuant to N.J.S.A. 45:15-9(a).
2. Respondent Lenoff violated N.J.S.A. 45:15-17(e) in that while an inactive real estate licensee in the state of New Jersey, he showed the property located at 83 Hamilton Street, East Orange, New Jersey on May 18, 2020, and continually engaged in real estate business and activity during the period of September 1, 2019 through May 26, 2020, which demonstrates incompetency and unworthiness.
3. The Respondent Lenoff violated N.J.A.C. 11:5-6.1(r) in that as the managing member of Luzzato, LLC and an inactive real estate licensee in the state of New Jersey, he knew or should have known that the advertising activities of Luzzato, LLC were false and misleading.
4. The violations asserted in the OTSC against Respondent Intriago are hereby dismissed given there was insufficient evidence to sustain said violations.

DETERMINATION AND ANALYSIS

I. Denial of Lenoff's application to reinstate

The Commission finds there is sufficient credible evidence to sustain the allegations in Count One of the OTSC.

New Jersey courts have repeatedly recognized that the principal intent behind the Real Estate Brokers and Salesperson Act ("Act"), N.J.S.A. 45:15-1 to -42, is to "protect consumers by excluding 'undesirable, unscrupulous and dishonest persons...from the real estate business.'" Sammarone v. Bovino, 395 N.J. Super. 132, 138 (App. Div. 2007) (citation omitted); see also Tobias v. Comco/America, Inc., 96 N.J. 173, 180 (1984); Kazmer-Standish Consultants, Inc. v. Schoeffel Instruments Corp., 89 N.J. 286, 290 (1982); and Markeim-Chalmers, Inc. v. Masco Corp., 322 N.J. Super. 452, 457 (App. Div. 1999). "One way the statute achieves its purpose is by excluding people who are unqualified and who do not have good moral character." Tobias v. Comco/America, Inc., 96 N.J. at 180 (citing N.J.S.A. 45:15-9).⁴

N.J.S.A. 45:15-9(a) provides that an applicant for licensure as a real estate salesperson in this State must demonstrate good moral character, and that the Commission is empowered to investigate and require proof of an applicant's honesty, trustworthiness, character, and integrity. The nature and duties of a real estate business are grounded in interpersonal, fiduciary, and business relationships, and demand the utmost honesty, trust, and good conduct. Maple Hill Farms, Inc. v. New Jersey Real Estate Commission, 67 N.J. Super. 223, 232 (App. Div. 1961); Div. of the New Jersey Real Estate Comm'n v. Ponsi, 39 N.J. Super. 526, 527 (App. Div. 1956). These requirements and qualities serve to protect the public interest.

⁴ N.J.S.A. 45:15-9 was subsequently recodified, pursuant to P.L. 2018, c. 71, to include subsection letters. The applicable provision is now codified at N.J.S.A. 45:15-9(a).

It is well established that in an administrative proceeding, it is necessary to establish the truth by the preponderance of evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Preponderance may be described as “the greater weight of credible evidence in the case. It does not necessarily mean evidence of the greater number of witnesses but means that evidence which carries the greater convincing power.” State v. Lewis, 67 N.J. 47, 49 (1975). The evidence must be such as would “lead a reasonably cautious mind to a given conclusion.” Bornstein v. Metro Bottling Co., 26 N.J. 263, 275 (1958).

Here, Lenoff has the burden to prove that he possesses the honesty, trustworthiness, character, and integrity required by N.J.S.A. 45:15-9(a) in order to merit licensure as a real estate salesperson. Sammarone v. Bovino, 395 N.J. Super. 132, 138 (App. Div. 2007). Lenoff must demonstrate that he satisfies the requirements of N.J.S.A. 45:15-9(a) by a preponderance of the competent, relevant, and credible evidence presented. Lenoff has not met the burden of proof as he has failed to demonstrate good moral character as required under N.J.S.A. 45:15-9(a).

The material facts are uncontroverted. On January 6, 2021, Lenoff was convicted of Stalking, in violation N.J.S.A. 2C:12-10(b). This is a very serious offense. Moreover, at the time of the crime, the victim was and remains is a real estate licensee. Over a period of several months, Lenoff called this licensee from different phone numbers and threatened that she was going to jail for unproven misdeeds. In his testimony to the Commission, Lenoff attempted to characterize his conduct as merely “childish.” Lenoff’s conduct however was not childish in any regard. In a statement to the criminal court, Lenoff admitted that he wanted “to commit emotional distress.” (S-17 at 61). Indeed, Lenoff was, in fact, convicted of “purposefully or knowingly engag[ing] in a course of conduct directed at a specific person that would cause a reasonable person to fear for his safety . . . or suffer other emotional distress,” in violation of N.J.S.A. 2C:12-10(b). As a

consequence, Lenoff was subjected to a permanent restraining order under N.J.S.A. 2C:12-10.1(a) to protect the victim and her family. (S-21 at 76). Moreover, Lenoff's conviction for engaging in threatening conduct to purposely cause emotional distress occurred only three years ago. The foregoing uncontroverted facts undermine any contention that Lenoff possesses the honesty, trustworthiness, character, and integrity necessary to satisfy the responsibilities of licensure. Having reviewed the evidence presented, the Commission finds that Lenoff has failed to establish by the preponderance of evidence that he possesses the qualities set forth by N.J.S.A. 45:15-9(a) to merit licensure as a real estate salesperson.

a. Engaging in Acts Constituting any Crime or Offense

i. Application of N.J.S.A. 45:1-21.5

Pursuant to N.J.S.A. 45:1-21.5(a), as the licensing authority that passes upon the qualifications of applicants to engage in the business of real estate, the Commission must consider various factors in determining whether that applicant is disqualified from licensure "solely because the person has been convicted of or engaged in acts constituting any crime or offense." In making that determination, the Commission must examine whether that crime or offense relates adversely to the occupation of being a real estate salesperson or is of a nature such that licensure of the person would be inconsistent with the public's health, safety, or welfare. Ibid. Specifically, the Commission must consider the following four factors: (1) the nature and seriousness of the crime or offense and the passage of time since its commission; (2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity; (3) any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity; and (4) the relationship of the crime or offense to the ability, capacity,

and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity. Ibid.

The first factor is comprised of two components: (1) the nature and seriousness of the crime or offense and (2) the passage of time since its commission. N.J.S.A. 45:1-21.5(a)(1). With respect to the first component, it is uncontested that Lenoff was convicted of Stalking, in the 4th degree, in violation of N.J.S.A. 2C:12-10(b). As discussed above, the Commission finds that the nature of the conduct underlying Lenoff's conviction to be a serious offense involving threats that would cause a reasonable person to fear for their safety or suffer other emotional distress, which were directed at a real estate licensee. The second component examines the passage of time since the commission of the crime. Here, Lenoff's criminal conduct occurred in 2018 and lasted several months. However, Lenoff's conviction was not entered until 2021, which was just three years ago, and, at this point, he has not completed his term of probation.⁵

The next factor to be considered is the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated by the entity. N.J.S.A. 45:1-21.5(a)(2). As discussed above, the Commission's purpose is to protect the public by ensuring licensees demonstrate honesty, trustworthiness, character and integrity. See N.J.S.A. 45:15-9(a). As Lenoff's conviction and underlying criminal conduct involve making serious threats to a real estate licensee for perceived and unproven misdeeds done to him, the licensure of Lenoff would be inconsistent with the Commission's directive to "exclud[e] undesirable, unscrupulous and dishonest persons" from the real estate business. Sammarone v. Bovino, 395 N.J. Super. at 138.

⁵ The Commission does note that Lenoff's term of probation is scheduled to terminate on January 6, 2024, unless otherwise extended by order of the court.

As such, clearly Lenoff's conviction relates adversely to the occupation of being a real estate salesperson, which is the profession that the Commission is charged to regulate and protect.

The third factor provides for the consideration of "any evidence of rehabilitation of the person in the period of time following the prior conviction that may be made available to the entity." N.J.S.A. 45:1-21.5(a)(3). Evidence of rehabilitation may include, but is not limited to, examples of good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. See N.J.S.A. 2A:168A-2(h). The Commission notes that Lenoff testified that he serves on the finance committee of his Temple and submitted several letters of support, including one from his mother who is also a licensee. The Commission duly considered those factors. While Lenoff expressed some remorse for his criminal conduct, the Commission notes that in his testimony and submitted documentation, Lenoff continued to lodge unproven accusations of wrongdoing by the victim, expressed bitterness and blame towards the victim, and even proclaimed that he was the true "victim" in this entire matter. (S-6, S-15, S-16, and S-18). Taken all together, the Commission finds that Lenoff did not present sufficient evidence of rehabilitation.

The fourth factor provides for consideration of the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation regulated by the entity. N.J.S.A. 45:1-21.5(a)(4). An applicant must demonstrate they possess good moral character, honesty, trustworthiness, and integrity to warrant licensure by this Commission. N.J.S.A. 45:15-9(a). As discussed above, Lenoff's conviction and the underlying illegal conduct raise serious questions about whether he possesses

these qualities. Therefore, Lenoff has not established, by the preponderance of the evidence, that he has the ability, capacity, and fitness to perform the duties and discharge the responsibilities of the licensure he seeks.

ii. Application of N.J.S.A. 2A:168A-2

Similar in purpose to N.J.S.A. 45:1-21.5, the Rehabilitated Convicted Offenders Act ("RCOA"), N.J.S.A. 2A:168A-1 to -16, provides that a board, such as the Commission, that acts as a licensing authority and passes upon the qualifications of applicants for a license to engage in the business of real estate, may only "disqualify or discriminate against an applicant for a license . . . if a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought." N.J.S.A. 2A:168A-2. In determining whether a conviction for a crime relates adversely to the occupation, the RCOA requires that the Commission analyze the following eight factors related to the license sought: (a) the nature and duties of the occupation being applied for; (b) the nature and seriousness of the crime; (c) the circumstances under which the crime occurred; (d) the date of the crime; (e) the age of the person when the crime was committed; (f) whether the crime was an isolated or repeated incident; (g) the social conditions which may have contributed to the crime; and (h) any evidence of rehabilitation. Ibid.

With regard to the first RCOA factor, the nature and duties of the occupation being applied for, Lenoff here seeks licensure as a real estate salesperson. As discussed above, the Commission's paramount concern is to ensure that licensees possess good moral character, honesty, integrity, and trustworthiness. See N.J.S.A. 45:15-9(a). Lenoff plead guilty to one count of Stalking, in the 4th degree, in violation of N.J.S.A. 2C:12-10(b). The underlying criminal conduct occurred in the

context of the real estate profession and was taken against a licensee. This raises serious concerns about Lenoff's moral character and integrity.

With respect to RCOA factors (b) through (g), the nature and seriousness of the crimes, the circumstances under which the crime occurred, the details regarding the conviction, and whether the crime was an isolated or repeated incident, the facts in this case relevant to these factors are discussed at length above. The RCOA also requires consideration of the social conditions that may have contributed to the crime. In the instant matter, Lenoff does not provide any explanation for his egregious behavior, other than that he felt he had been done wrong by the victim. The final factor in the RCOA analysis provides for any evidence of rehabilitation. N.J.S.A. 2A:168A-2(h). As discussed above, the Commission is not satisfied that Lenoff has presented sufficient evidence of his rehabilitation at this point in time.

For all the foregoing reasons, the Commission affirms the denial of Respondent Lenoff's application to reinstate his real estate salesperson license and thereby sustains the allegations in Paragraph 18 of the OTSC.

II. Violations in OTSC against Lenoff

The Commission finds there is sufficient credible evidence to sustain the violations alleged against Lenoff in Counts Two and Three of the OTSC.

The REC bears the burden of proving the allegations in the OTSC against Lenoff by a preponderance of the competent, relevant, and credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962); In re Polk, 90 N.J. 550, 560 (1982). The evidence must be such as would "lead a reasonably cautious mind to a given conclusion." Bornstein v. Metro Bottling Co., 26 N.J. 263, 275 (1958). The testimony and exhibits presented to the Commission prove, by a preponderance of the evidence, the violations against Lenoff in Counts One, Two and Three of the OTSC.

As to Count One, the Commission, as explained above, sustains the violations alleged therein and finds that Lenoff's guilty plea to Stalking in the 4th degree demonstrates that he lacks the good moral character required of all real estate licensees, pursuant to N.J.S.A. 45:15-9(a).

As to Count Two, the Commission sustains the violations alleged therein and finds that Lenoff showed the Hamilton Street property, used his Supra access 32 times, and continually engaged in real estate business and related activities during the period when his license was inactive, which demonstrates a violation of N.J.S.A. 45:15-17(e). The REC's licensing records verify that Lenoff's license was inactive as of August 30, 2019. (S-1). Lenoff's license became inactive when he ceased being employed by Brewster Realty. It remained inactive because he was never re-employed at another brokerage firm. Lenoff knew his license was inactive and therefore filed an application to reinstate his license in November 2019, which remained pending until the date of this hearing. Based upon the data provided by Supra, which tracks Lenoff's use of this software, Lenoff continually engaged in real estate business and activity during the period of September 1, 2019 through May 26, 2020, including on May 18, 2020 when he showed 83 Hamilton Street, East Orange, New Jersey. (S-38). In his testimony, Lenoff also does not deny that he knowingly engaged in real estate business, including "consulting" with real estate clients, when his license was inactive.

In mitigation, Lenoff claims that he believed his license was still active since his accounts with the MLS and Supra remained active. The Commission finds this claim is without merit. In November 2019, Lenoff applied to have his license reinstated and admits that he never received any notice from the REC thereafter reinstating his license. Indeed, Lenoff admitted to Daxl that he knew his license was inactive when he showed the Hamilton Street property on May 18, 2020, and admitted that on May 26, 2020 he continued to show other properties. Moreover, the

Commission notes that the MLS and Supra are private companies that are not regulated by the REC, and the actions and agreements between them and Lenoff do not bind the REC.

As to Count Three, the Commission sustains the violations alleged therein and finds that Lenoff, as managing member of Luzzato, LLC, knew or should have known that the Luzzato's advertising activities were false and misleading, in violation of N.J.A.C. 11:5-6.1(r). In the company's internet advertising, Luzzato claims it was "Licensed in Real Estate" and used the name "Luzzato Realty." (S-40, at 153). This entity was never licensed by the REC. Luzzato's website also advertised "Unique Listings" that displayed the interior of various homes purportedly being sold. (S-40, at 154-158). Lenoff however admitted these listings on the website were just pictures of prototypes of properties that possibly could be on the market, but were not actual listings under contract. In mitigation, Lenoff claims that he hired an outside firm to create Luzzato's website and these advertisements were only in the "beta" stage of development. However, Lenoff also testified that the content on Luzzato's website was readily accessible to the public, that he provided the information used in these advertisements, and he was the person ultimately responsible for the company's advertising campaign. As such, the Commission finds that Lenoff knew or should have known that the Luzzato's advertising activities were false and misleading.

For all the foregoing reasons, the Commission sustains the violations against Lenoff set forth in Paragraphs 21 and 28 of the Order to Show Cause.

III. Violations in OTSC against Intriago

The Commission finds there is insufficient credible evidence to sustain the violations of N.J.A.C. 11:5-4.2(a)(1) and N.J.S.A. 45:15-17 alleged against Intriago in Count Four of the OTSC. The REC bears the burden of proving the allegations in the OTSC against Intriago by a

preponderance of the competent, relevant, and credible evidence. Atkinson v. Parsekian, 37 N.J. at 149 (1962); In re Polk, 90 N.J. at 560. This burden has not been satisfied.

The Commission finds Intriago's testimony to be credible that he considered Lenoff for a salesperson position with Elite Intriago Realty, but declined to offer him the job because Lenoff's license was inactive. The Commission also finds Intriago's testimony to be credible that he had no prior knowledge of nor any involvement with Lenoff's showing of the Hamilton Street property on May 18, 2020 or any other real estate activity conducted by Lenoff while his license was inactive. The Commission also finds Intriago's testimony to be credible that he neither wrote nor submitted the letter purportedly from Elite Intriago Realty in support of Lenoff's appeal. The Commission notes there was no documentary evidence or testimony presented that refuted these findings.

Based on the above findings of fact, the Commission finds that the REC has failed to carry its burden of proof regarding the violations alleged against Intriago, and and therefore dismisses Count Four.

Disciplinary Action Against the Lenoff

The Act charges the Commission with the "high responsibility of maintaining ethical standards among real estate brokers and sales[persons]" in order to protect New Jersey real estate consumers. Goodley v. New Jersey Real Estate Commission, 29 N.J. Super. 178, 181-182 (App. Div. 1954). The Commission is empowered to suspend and revoke the licenses of, and impose fines against, brokers and salespersons that violate any of the offenses enumerated in N.J.S.A. 45:15-17 or the real estate regulations. Maple Hill Farms, Inc. v. New Jersey Real Estate Commission, 67 N.J. Super. 223, 232 (App. Div. 1961); Division of New Jersey Real Estate Commission v. Ponsi, 39 N.J. Super. 526, 527 (App. Div. 1956). Courts have long recognized that

the real estate sales industry should exclude individuals who are incompetent, unworthy, and unscrupulous, in order to protect the public interest. See Div. of New Jersey Real Estate Commission v. Ponsi, SUPRA at 532-533.

The Commission has the power to suspend, revoke, or place on probation the license of any licensee for “any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty.” N.J.S.A. 45:15-17(e). The Commission may also exercise such disciplinary powers for the violation of any of the administrative rules adopted by the commission. N.J.S.A. 45:15-17(t). As detailed above, Lenoff showed properties and continually engaged in real estate business and other related activities during the period when he knew his license was inactive. In addition, as the managing member of Luzzato, LLC, Lenoff engaged in advertising activities that were false and misleading, in violation of N.J.A.C. 11:5-6.1(r). Given Respondent Lenoff’s conduct demonstrates unworthiness and incompetency, and constitutes major violations of the Act and its regulations, the Commission imposes the following disciplinary action:

- a. a fine of \$20,000; and
- b. a three year period of ineligibility for licensure, effective from the date of this Order, as the earliest date he may reapply for a real estate license pursuant to N.J.S.A. 45:1-21.5(b)(2).

The Commission also determined that it is necessary and appropriate that Lenoff not be granted licensure as a New Jersey real estate salesperson unless and until immediately preceding application, he has again completed all prelicensure courses, passed the license examination, satisfied the requirements of N.J.S.A 45:15-9(a), and paid all fines, in full, due and owing the REC.

The Commission also determined that it is necessary and appropriate that Lenoff be enjoined and ordered to cause Luzzato, LLC to cease and desist from: (1) engaging in real estate

business and activity, including but not limited to listing properties for sale; and (2) utilizing any advertisement and/or website that states or refers, directly or indirectly, to Luzzato, LLC and/or its members as being licensed by the Real Estate Commission.

Taking the above disciplinary action against Lenoff is consistent with the Commission's decisions in similar matters. See e.g., NJREC v. Saul Sanchez, et al., Final Order of Determination, Dkt No. UNI-14-014 (May 26, 2016) (Respondent Sanchez, among other violations, engaged in real estate activity during the period of his license revocation violating N.J.S.A. 45:15-17(e) in that his conduct demonstrated unworthiness, whereby his real estate salesperson's license was revoked for a period of five years from the date of the Order and a \$5,000 fine was imposed.); NJREC v. Jeffrey Ray, et al., Final Order of Determination, Dkt. No. ESS-13-002 (August 22, 2014) (Respondent Ray, among other violations, engaged in real estate activity through unlicensed entities; and was ordered to cease and desist from engaging in all unlicensed real estate activities, which extended to all business entities of which Ray is principal officer, and a \$10,000 fine was imposed.); NJREC v. Mark Brownlee, et al., Final Order of Determination, DKT. No. BER-14-018 (dated March 2, 2017) (Respondent Brownlee, among other violations, made substantial misrepresentation to members of the public by representing himself and his company as real estate licensees when in fact they did not hold any real estate licenses, and engaged in multiple real estate brokerage activities without a real estate license; whereby he was deemed ineligible for any type of licensure for a period of two years from the date of the Order, and a \$7,500 fine was imposed).

Monetary Penalty Against the Respondent

Pursuant to N.J.S.A. 45:15-17, the Commission may impose "a penalty of not more than \$5,000 for the first violation" of the Act, and a "penalty of not more than \$10,000 for any subsequent violation." In Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), the

Supreme Court established the following seven factors that must be considered in evaluating the imposition of fines in administrative proceedings and these factors are applicable to this matter which seeks the imposition of penalties under the Act: (1) the good or bad faith of the respondent; (2) the respondent's ability to pay; (3) the amount of profits obtained from the illegal activity; (4) the injury to the public; (5) the duration of the illegal activity or conspiracy; (6) the existence of criminal or treble actions; and (7) any past violations. Id. at 137-139.

The first Kimmelman factor is whether the Respondent acted in good or bad faith. The REC's licensing records verify that Lenoff's license was inactive as of August 30, 2019. As detailed above, all credible evidence shows that Lenoff knew his license was inactive and he filed an application to reinstate his license, and while his application was still pending and unresolved, he nevertheless continuously engaged in real estate activities knowing his license was inactive. Clearly, Lenoff acted in bad faith and this factor weighs in favor of a monetary penalty.

The second factor of the Kimmelman analysis is the Respondent's ability to pay the fines assessed. Here, no evidence was presented as to the Respondent's ability or inability to pay the fines being assessed, and thus this factor is neutral.

The third factor of the Kimmelman analysis is the amount of profits obtained from the illegal activity. According to information provided by Lenoff, it appears that Luzzato, LLC and/or other members were involved real estate closings during the period that Lenoff's license was inactive. (S-41, at 167-168). It is unclear, however, whether or not Lenoff received any monetary benefit from those transactions, and thus this factor is neutral.

The fourth factor of the Kimmelman analysis is to determine whether the licensee's conduct caused injury to the public. The public is harmed whenever a person, unlicensed or holding an inactive license, engages in real estate activities because they are operating outside the

purview and protections of the Act and the Commission. It is the responsibility of the Commission to ensure that every individual who serves the public as a real estate professional is duly licensed, has complied with the laws of this State, and demonstrates behavior which instills the utmost public trust and competence. For anyone to knowingly and intentionally misrepresent and/or mislead the public into believing that they hold a current, valid real estate license when, in fact, they do not, is behavior that completely violates that standard and undermines the authority of the Commission to regulate the real estate profession. This factor weighs in favor of a monetary penalty.

The fifth factor in a Kimmelman analysis is the duration of the illegal conspiracy or scheme. The evidence presented indicates that Lenoff's conduct was not an isolated, one-time occurrence, but in fact was continuous for a significant period of time. Indeed, between September 1, 2019 and May 26, 2020, Lenoff used his Sura account to access properties 32 times when his license was inactive. Moreover, since 2018, the website operated by Luzzato, LLC had contained blatantly misleading advertising, for which Lenoff was responsible. This factor does weigh in favor of a monetary penalty.

The existence of criminal actions and whether a civil penalty may be unduly punitive if other sanctions have been imposed is the sixth factor. The Supreme Court held in Kimmelman that a lack of criminal punishment weighs in favor of a more significant civil penalty because the defendant cannot argue that he or she has already paid a price for his or her unlawful conduct. Kimmelman, 108 N.J. at 139. Here, the Respondent has not faced any criminal punishment for his actions. As such, this factor does weigh in favor of a monetary penalty.

The seventh and final factor takes into consideration the Respondent's past violations, of which there are none. No evidence of past violations was presented at the hearing. This factor does not weigh in favor of a monetary penalty.

In light of these factors which in the aggregate weigh in favor of a monetary penalty, the Respondent shall pay a fine in the total amount of \$20,000, which is comprised as follows: \$5,000 for the violation of N.J.A.C. 11:5-6.1(r) (engaging in advertising activities that were false and misleading) and \$15,000 for the multiple violations N.J.S.A. 45:15-17(e) (demonstrating unworthiness and incompetence by engaging in 32 separate acts of real estate activity while having an inactive license, which are consolidated). The fine is fully warranted, not excessive or unduly punitive, and is necessary to demonstrate the appropriate level of opprobrium for the Respondent's conduct.

For the reasons set forth above and pursuant to N.J.S.A. 45:15-9(a), the Commission hereby:

- (1) Affirms the denial of Lenoff's application to reinstate his New Jersey real estate salesperson license;
- (2) imposes a fine of \$20,000;
- (3) establishes a period of three years from the date of this Order as the earliest date Lenoff may reapply for licensure provided he has paid in full the above fine and again completed all prelicensure courses, passed the license examination, and satisfied the requirement of N.J.S.A. 45:15-9(a), at which time any additional evidence of rehabilitation may be considered upon reapplication for licensure; and
- (4) enjoining Lenoff and ordering him to cause Luzzato, LLC to cease and desist from: (a) engaging in real estate business and activity and (b) utilizing any advertisement and/or website that states or refers, directly or indirectly, to Luzzato, LLC and/or its members as being licensed by the Real Estate Commission.

SO ORDERED this 23rd day of April, 2025.

By: Eugenia K. Bonilla, Commissioner
Erin Brown, Commissioner
Denise M. Illes, Commissioner
Carlos Lejnieks, Commissioner
Gabrielle Liguori, Commissioner



Eugenia K. Bonilla, President
New Jersey Real Estate Commission