

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER MOR-18-009
)	(REC File No. 10006602)
Complainant,)	
)	CONSENT ORDER
v.)	
)	
VANESSA BROWN, licensed New Jersey)	
real estate broker (Ref. No. 8734053))	
)	
Respondent.)	

THIS MATTER having been opened to the New Jersey Real Estate Commission (“Commission”) in the Department of Banking and Insurance, State of New Jersey, upon information that Vanessa Brown (“Brown”), a licensed real estate broker, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Brown is subject to the provisions of the New Jersey Real Estate Licensing Law, N.J.S.A. 45:15-1 et seq. and corresponding regulations; and

WHEREAS the Real Estate Commission staff has alleged that Brown has violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS Brown acknowledges that she is aware of her right to a plenary hearing on any violations which the Commission may allege she has committed and having had the advice of counsel on matters to which this Consent Order pertains, she is knowingly and voluntarily waiving the right to a hearing; and

WHEREAS the Commission and Brown, 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 Wednesday, January 23, 2019; and

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

NOW, THEREFORE, IT IS on this 24th day of January, 2019

ORDERED AND AGREED that Respondent Brown admits the following facts:

1. Brown is a licensed New Jersey real estate broker, who was first licensed on March 19, 1990, and was most recently licensed as broker of record of Brown Executive Realty, LLC ("Brown Realty") whose office was located at 31 South Street, Suite 312, Morristown, New Jersey 07960. Brown's license is currently inactive as a result of her consent to an order temporarily suspending her license as of September 1, 2018, pending a final resolution to the instant matter; and
2. At all relevant times herein, Brown represented clients (the "Buyers") as buyer's agent. At the time the Buyers engaged Brown to represent them in finding and purchasing a property, they were renters at a property located in Mine Hill, New Jersey (the "Property"); and
3. On or about May 8, 2017, the Property was listed for sale; and
4. On or about May 14, 2017, the Buyers provided Brown with a check in the amount of \$10,000, as a deposit for a property they were interested in purchasing in Morris County, New Jersey; and
5. On or about May 15, 2017, Brown deposited the Buyers' check described above into the Brown Realty trust account; and

6. The Buyers did not end up purchasing the property referenced in ¶ 4, however the funds were retained by Brown, purportedly to be used as a deposit on a future purchase while the Buyers continued to view other properties; and

7. On or about July 4, 2017, the Buyers provided Brown with check number 456 in the amount of \$10,000, as additional deposit monies to be used in the prospective purchase of the Property; and

8. On or about July 21, 2017, Brown deposited the Buyers' check number 456 into the Brown Realty trust account; and

9. On or about July 22, 2017 the Buyers entered into a contract to purchase the Property. The contract of sale stated that deposits in the total amount of \$20,000 were to be paid by the Buyers. The contract further stated that the deposit monies were to be held in the trust account of Brown Realty until closing occurred, at which time all monies were to be released to the sellers; and

10. During the attorney review period, the terms of the contract of sale were modified such that it was agreed that all deposits were to be held in the attorney trust account of the sellers' attorney; and

11. Brown never transferred the Buyers' deposit monies to the sellers' attorney; and

12. Closing was scheduled to take place on October 27, 2017. In the time-period leading up to the scheduled closing date, the sellers' attorney attempted to contact Brown numerous times, without success, to facilitate the release of the Buyers' deposit monies or arrange for the funds to be delivered at closing. After failing to respond for several days, on the day that closing was scheduled to take place, Brown represented to the sellers' attorney that the funds would be released to his office on October 31, 2017; and

13. Closing occurred on October 27, 2017; and

14. Brown failed to release, or make appropriate arrangements for the release of, the deposit monies to the sellers' attorney on October 31, 2017. Thereafter, the sellers of the Property, through their attorney, requested the release of the Buyers' deposit monies from Brown on numerous occasions. Brown continued making promises to deliver the deposit monies and failed to do so; and

15. On or about November 20, 2017, the sellers' attorney filed a complaint with the Commission regarding the outstanding deposit funds; and

16. On or about December 4, 2017, a Commission investigator emailed Brown to schedule an interview regarding the content of the complaint received by the Commission. In the email, the investigator instructed Brown to furnish escrow statements, a general ledger and other transaction files for Brown Realty at the time of the interview; and

17. On December 11, 2017, Brown was interviewed by a Commission investigator. Other than files pertaining to the subject transaction, no escrow account statements, general ledgers or transactional files were available for the investigator's review. Brown stated to the Commission investigator that all of her records are maintained by her accountant and not available for on-site inspection at the office location of Brown Realty. It was further discovered that at that time, Brown had not yet released the deposit funds to the sellers of the Property or to their attorney. Brown presented two cashier's checks made payable to each of the sellers to the Commission investigator and represented that the checks would be delivered to the sellers' attorney that same day. The Commission investigator requested that Brown provide bank account statements for Brown Realty's escrow and operating accounts for 2017 as soon as possible; and

18. Brown subsequently delivered the above-described checks to the sellers' attorney;
and

19. Brown subsequently provided the requested records for the Commission's review.

A review of the Brown Realty trust account bank statement revealed the following information:

- a. The beginning balance of the trust account for May of 2017 was \$11.12. There was one deposit for \$10,000, which corresponded with the deposit of the Buyers' deposit check referenced in ¶ 4 above. During the month of May, eight checks were drawn from the account and made payable to Brown, in the total amount of \$9,250. Additionally, one check was written to Calvary Baptist Church in the amount of \$30. The ending balance in the trust account on May 30, 2017 was \$731.12; and
- b. The beginning balance of the trust account for June of 2017 was \$731.12. During the month of June, Brown deposited \$200 and wrote two checks from the trust account. One of the checks was made payable to Brown in the amount of \$500 and the other check was made payable to Louis Maglia & Son in the amount of \$425. The remaining balance in the trust account on June 26, 2018 was \$6.12; and
- c. The beginning balance of the trust account for July of 2017 was \$6.12. There were three deposits during the month of July, in the total amount of \$26,655. One of the deposits corresponded with the deposit of the Buyers' deposit check number 456 in the amount of \$10,000. Nine checks were written from the trust account and made payable Vanessa Brown, in the total amount of \$13,310. One check was written to Garden State MLS, in the

amount of \$75. Additionally, \$5,000 was withdrawn from the trust account on July 7, 2017. The ending balance in the trust account on July 28, 2017 was \$8,276.12; and

- d. From August 1, 2017 through November 30, 2017, Brown continued to issue checks from the Brown Realty trust account, made payable to herself, leaving a balance of \$739.13 in the trust account as of November 30, 2017; and
- e. During relevant times to the subject transaction, Brown Realty's escrow account was out of trust; and

20. During the time period surrounding the subject transaction, Brown was facing a family emergency, causing her extreme emotional distress and requiring her to be out of state for extended periods of time; and

21. There are no outstanding monetary obligations and all parties to the subject transaction have been made whole; and it is further

ORDERED AND AGREED that based on the above facts, Respondent Brown admits to the following:

1. Respondent Brown's conduct is in violation of N.J.A.C. 11:5-5.1(e), in that Brown failed to deposit the Buyer's deposit check number 456 into the Brown Realty trust account within five days of her receipt of those funds; and

2. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(d), in that Brown failed to account for and/or pay over the Buyers' deposit funds to the sellers, as described above; and

3. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(o), in that Brown mingled the deposit money of principals, the Buyers, with her own and failed to segregate and maintain the Buyers' deposit monies in a special account, separate and apart from personal or other business accounts; and

4. Respondent Brown's conduct is in violation of N.J.A.C. 11:5-5.4(e) and 5.5(a), in that Brown failed to maintain the financial books and other records described in N.J.A.C. 11:5-5.4(a) for Brown Realty, located at the primary office location, and Brown failed to make those books and records available for inspection by Commission investigators; and

5. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(a), in that Brown made a false promise to the sellers of Property by promising that she would be release the deposit funds to the sellers or to the sellers' attorney within three days of the scheduled closing and failed to do so, as described above; and

6. Respondent Brown's conduct is in violation of N.J.A.C. 11:5-6.4(a), in that by misappropriating the Buyers' deposit monies and engaging in the conduct described above, she failed in her fiduciary duty to the Buyers to protect and promote, as she would her own, the interests of her clients.

Based on the above, it is hereby:

ORDERED AND AGREED that Brown shall pay a fine in the amount of seven thousand five hundred dollars (\$7,500). The fine shall be paid in full within one (1) year of the full execution of this Consent Order. A payment plan may be worked out with the Department of Banking and Insurance, Collection Section, whereby Brown pays off the fine in monthly installments. 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 Brown shall complete 60 hours of prelicense education, which shall include completion of a 30-hour precensure course on brokers' ethics and agency law and relationships and a 30-hour precensure course on office management. Proof of completion of the same shall be submitted to Commission staff within one (1) year of the full execution of this Consent Order. Completion of the education prescribed herein shall not count towards the ordinary continuing education requirement for license renewal; and it is further

ORDERED AND AGREED that Brown's real estate broker's license shall be revoked for a period of five (5) years from the date of the full execution of this Consent Order. Upon completion of the period of revocation, Brown shall be required to completely requalify for licensure as a broker in order to be eligible for the issuance of a real estate broker's license; and it is further

ORDERED AND AGREED that Brown's real estate salesperson's license shall be suspended until September 1, 2020. Brown must complete all continuing education and pay the fine prescribed herein in full prior to being eligible for re-licensure as a real estate salesperson; and it is further

ORDERED AND AGREED that any license issued to Brown after the completion of the term of suspension prescribed herein will be held on a probationary basis for a period of one (1) year. During the probationary period, the following conditions shall apply:

- a. It shall be Brown's obligation to inform any employing broker that her license is on probation; and
- b. Any employing broker must notify the Commission within 72 hours if he or she receives any information indicating that Brown may have violated the New Jersey Real Estate Licensing Law or corresponding regulations; and
- c. Brown must notify the Commission within 72 hours if she is charged with, or convicted of, any criminal or disorderly persons offense; and it is further

ORDERED AND AGREED that in accordance with the prohibitions set forth in N.J.S.A. 45:15-12.3, Brown shall not be a general partner, officer, director, managing member or owner, either directly or indirectly, of a controlling interest in a licensed partnership, limited partnership, limited liability company or corporation, nor shall Brown be retained or employed in any capacity or compensated in any manner by a licensee, nor shall Brown occupy or share office space in a licensed office location for any purpose whatsoever during the period of suspension of Brown's salesperson's license prescribed herein; and

ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10006602. The Commission reserves the right to take further administrative action if it obtains any other information that Brown may have violated the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq. or corresponding regulations, N.J.A.C. 11:5-1.1 et seq.; 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, Brown confirms that:


- a. She is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair her ability to knowingly and voluntarily execute this Consent Order; and
- b. She has received the advice of legal counsel on this matter and on the terms of the Consent Order, that she is entering into this agreement knowingly and voluntarily, that she has 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 her to secure her acceptance of the provisions of this Consent Order.

Dated: January 24, 2018⁹



Richard Mumford
Acting Director of Banking

Dated: Jan 15th, 2018⁹



Vanessa Brown

Subscribed and sworn to before me on this 15 day of January, 2019



Notary Public

ERIC R. FIORITO, JR.
NOTARY PUBLIC OF NEW JERSEY
ID#2417148
My Commission Expires Feb. 10, 2022