

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION,)	DOCKET NUMBER: BUR-19-024
)	(REC Ref. Nos. 10002852, 10002948,
Complainant)	10002970, 10003340, 10003534)
)	
)	ORDER TO SHOW CAUSE
)	
vs.)	
)	
SHAWN BURKE, licensed New Jersey real)	
estate broker, (Lic. No. 0678863), broker of)	
record of BURKE PROPERTIES, LLC, licensed)	
New Jersey real estate broker (Lic. No. 1430019),)	
)	
Respondent)	

THIS MATTER being commenced by the New Jersey Real Estate Commission in the Department of Banking and Insurance, State of New Jersey on its own motion pursuant to the provisions of N.J.S.A. 45:15-17, 45:15-17.1, 45:15-18 and N.J.A.C. 11:5-1.1, and it appearing that:

1. The Respondent, Shawn Burke, is a formerly licensed New Jersey real estate broker and was broker of record of Burke Properties, LLC, formerly licensed New Jersey real estate broker which was located at 528 Eayerstown Road, Southampton, N.J. 08088. Respondent's license and the license of Burke Properties, LLC expired on June 30, 2017 and have not been renewed; and

COUNT ONE

2. The New Jersey Real Estate Commission received complaints from consumers who had retained the property management services of Respondent and Burke Properties, LLC. Each of the complaints alleged that Respondent failed to turn over rent money and security deposits that he had collected on rental properties owned by those consumers and which were the subject of the property management agreements. They are listed below:

	<u>Owner</u>	<u>Property</u>	<u>Amounts not remitted to owner</u>
a.	Sean Killian	12 Buckingham Dr. Eastampton, N.J.	\$2,000
b.	Seth Martinez	349 Billingsport Rd 226 Lincoln Ave. 601 King St. 501 4 th St. Paulsboro, N.J.	\$5,821 (total for all properties)
c.	Asuncion Muniz	225A Market St. 225B Market St. 229 Market St. Camden, N.J.	\$1,200 \$1,746.72 \$1,400
d.	Frank Rovello	11 Castle Rd. Burlington, N.J.	\$2,200
e.	Eric Chin	105 Willow Turn 107 Willow Turn Mt. Laurel, N.J.	\$3,269 \$1,500

3. Real Estate Commission investigators subpoenaed escrow and operating account statements from PNC Bank for Burke Properties, LLC for the period of January 1, 2014 through March 31, 2015. A review of those records revealed that as of September 2014, \$30,217 had been transferred out of the escrow account into the operating account. The balance in the escrow account as of December 31, 2014 was \$-4.00; and

4. The conduct of Respondent is in violation of N.J.S.A. 45:15-17(o) and N.J.A.C. 11:5-5.1(a) and (c) in that he commingled the money of her principals with his own, and failed to maintain in a special account, separate and apart from personal or other business accounts, all monies received by the Respondent acting in the capacity of a real estate broker

or as escrow agent or the temporary custodian of the funds of others in a real estate transaction; and

5. The conduct of Respondent is in violation of N.J.A.C. 11:5-6.4(a) in that by the actions set forth above, he failed to protect and promote the interests of his principals; and

COUNT TWO

6. On March 16, 2015 and on several other occasions thereafter, Real Estate Commission investigators attempted to visit the office of Burke Properties, LLC located at 528 Eayerstown Road, Southampton, N.J. 08088 which was the address on file with the Commission. On each occasion, the office was found to be unoccupied and locked; and

7. Respondent violated N.J.S.A. 45:15-12 in that he failed to maintain a designated main office open to the public; and

COUNT THREE

8. As part of the Real Estate Commission investigation, a subpoena to appear and produce records was served upon Respondent via e-mail which he acknowledged receipt of on March 5, 2015. That subpoena directed Respondent to appear at the office of Burke and Company, LLC to meet with Real Estate Commission investigators on March 16, 2015 and to have specific records available for their inspection at that time. Respondent failed to appear as required by the subpoena and did not otherwise produce any of the documents required in the subpoena. Another subpoena was issued by the Real Estate Commission on March 19, 2015 directing Respondent to appear at the offices of the Real Estate Commission on March 26, 2015 and to bring with him specific records

which were listed in the subpoena. Personal service was attempted three times at the agency location of record and each time there was no one present, and the office appeared to be closed. The subpoena was also sent via certified and regular mail. The certified mail was returned "unclaimed" and the regular mail was not returned; and

9. Respondent did not appear on March 26, 2015 or otherwise comply with the directives in the subpoena, in violation of N.J.S.A. 45:15-17(e), conduct demonstrating unworthiness; and

COUNT FOUR

10. On or about April 20, 2016, Respondent was arrested and charged in the Eastampton, N.J. Municipal Court with one count of Theft of Movable Property, in violation of N.J.S.A. 2C:20-3A. That criminal charge was related to the property at 12 Buckingham Drive, Eastampton, N.J. listed in paragraph 2(a) above. Respondent did not notify the Real Estate Commission within 30 days that he had been charged with a crime; and

11. Respondent's failure to notify the Real Estate Commission within 30 days that he had been charged with a crime is a violation of N.J.S.A. 45:15-17(s); and

COUNT FIVE

12. As set forth in paragraph 2(b) above, Seth Martinez is the owner of four properties located in Paulsboro, N.J. which were the subjects of the property management agreement that he had with Respondent. Mr. Martinez filed a claim with the Real Estate Guaranty Fund for reimbursement of the rent monies that Respondent unlawfully converted to his own use. Mr. Martinez recovered a judgment in the Superior Court of New Jersey, Camden County, in the amount of \$6,940.80 against Respondent and the Guaranty Fund.

Payment was subsequently made to Mr. Martínez through the Guaranty Fund and the judgment was assigned to the Real Estate Commission. Pursuant to N.J.S.A. 45:15-41, Respondent's license was immediately revoked until such time as he makes reimbursement to the Guaranty Fund;

And for good cause shown,

IT IS ON THIS 13th DAY OF NOVEMBER, 2019

ORDERED that Respondent, Shawn Burke, shall show cause why Respondent's eligibility to hold a real estate license now or in the future should not be suspended or revoked and/or why fines or other sanctions should not be imposed pursuant to N.J.S.A. 45:15-17 and N.J.A.C. 11:5-1.1. Respondent shall file a written Answer to the charges in this Order to Show Cause as required by N.J.A.C. 11:5-11.2 within twenty (20) days of the service of this Order. As required by N.J.A.C. 11:5-11.2, Respondent's written Answer must include specific admissions or denials of all allegations in the Order to Show Cause, state the factual basis of each and every factual allegation denied and assert any defenses that Respondent intends to present if this matter is deemed a contested case and a plenary hearing is held; and

IT IS FURTHER ORDERED that failure to comply with all the requirements of N.J.A.C. 11:5-11.2 may result in a determination that there are no material facts or issues of law in dispute and any presentation made to the Commission will be limited to the issue of the severity of any sanction or penalty to be imposed; and

IT IS FURTHER ORDERED that the New Jersey Real Estate Commission will review this Order to Show Cause and Answer filed, if any, at a meeting scheduled on or

after the 14th day of January, 2020 at 9:30 a.m. to determine whether there is a material fact or issue of law contested. No appearance is required at that time; and

IT IS FURTHER ORDERED that if the Commission determines that there is a material fact or issue of law contested, a hearing will be scheduled for a future date; and

IT IS FURTHER ORDERED that if the Commission determines that there is no material fact or issue of law contested, a hearing shall be scheduled at which the Respondent will be limited to presenting witnesses and documentary evidence regarding the issue of the severity of any sanction or penalty to be imposed; and

IT IS FURTHER ORDERED that a copy of this Order be served upon the Respondent as provided in N.J.S.A. 45:15-18, which service may be accomplished by serving a copy of this Order on the Respondents personally, or by delivering a copy hereof to his last known business addresses via certified mail.



Marlene Caride
Commissioner
New Jersey Department of Banking and Insurance

mag Burke OTSC/rec enforcement