

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION ) DOCKET NUMBER CAP-19-019  
 ) (REC File No. 10008443)  
 Complainant, )  
 )  
 v. ) ORDER TO SHOW CAUSE  
 )  
 FRANKLIN H. LEVIN, licensed New Jersey real )  
 estate salesperson (Ref. No. 9807264) )  
 )  
 Respondent. )

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THIS MATTER being commenced by the New Jersey Real Estate Commission (the "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, 45:15-18 and N.J.A.C. 11:5-1.1 to -12.18, and it appearing that:

ALLEGATIONS COMMON TO ALL COUNTS

1. Respondent Franklin H. Levin ("Levin") is an actively licensed New Jersey real estate salesperson, who was first licensed on September 6, 1998, and is currently licensed through Cape Atlantic Real Estate Investments, LLC d/b/a Keller Williams Realty Jersey Shore, licensed New Jersey real estate broker, whose primary office is located at 5406 New Jersey Avenue, Wildwood Crest, New Jersey. Upon information and belief, Levin operates primarily out of the branch office located 1 Atlantic Avenue, Ocean City, New Jersey; and

2. On March 20, 2019, Levin contacted New Jersey broker-salesperson Maryann Mason regarding her listing located at 233 East Roberts Avenue, Unit A, Wildwood, New Jersey (the "Property"). Levin indicated to Ms. Mason that he would like to show the Property to his

clients the following weekend. She advised Levin to contact her brokerage office to arrange an appointment to do so; and

3. The Property was an occupied residential home; and

4. On March 22, 2019, Levin contacted Ms. Mason's office and arranged an appointment for the following day, March 23, 2019, to show the Property. At that time, Levin obtained both the lockbox and garage access codes for the Property; and

5. Levin provided both the lockbox code and the garage code to his clients for them to view the Property on their own; and

6. On March 23, 2019, Levin was in Florida. Levin's buyer-clients travelled to the Property unaccompanied by Levin or any other licensee. They were able to gain entry into the garage but were unable to access the interior of the Property. Levin contacted Ms. Mason's office and indicated that he was at the Property but was unable to access the interior to show it to his clients; and

7. Ms. Mason contacted Levin to facilitate Levin showing the Property to his clients, however Levin indicated that he had already left the premises to view another property, but would return so that Ms. Mason could make the Property available for Levin to show it to his clients; and

8. Upon arriving at the Property, Ms. Mason discovered that Levin was in fact in Florida and his clients were directly provided with the lockbox and garage access codes for the Property and were unaccompanied by a licensee.

#### COUNT I

9. Levin's conduct constitutes a violation of N.J.S.A. 45:15-17(a), in that Levin made a substantial misrepresentation by falsely representing to Ms. Mason, the listing agent for the

Property, that he would accompany his clients to access and view the Property, when in fact he was in Florida on the date of the showing appointment; and

COUNT II

10. Levin's conduct constitutes a violation of N.J.S.A. 45:15-17(c), in that Levin pursued a flagrant and continued course of misrepresentation by falsely representing that he would be, or was physically present, with his clients to access and view the Property. His misrepresentation consisted of a course of numerous false statements to the listing agent and listing brokerage, in furtherance of his attempt to provide his clients with unsupervised access view the interior of the Property.

COUNT III

11. Levin's conduct demonstrates dishonesty, in violation of N.J.S.A. 45:15-17(e), by making intentionally false statements to allow his clients to access and view the Property unaccompanied by a licensee, as described more fully above.

COUNT IV

12. Levin's conduct demonstrates unworthiness for licensure, in violation of N.J.S.A. 45:15-17(e), in that by providing lockbox and garage access codes to the Property, which was an occupied residential home, directly to his clients in order to enable them to access the premises unescorted by a licensee, he has breached of the public trust afforded to all New Jersey licensees.

And for good cause shown,

IT IS on this 9<sup>th</sup> day of Sept, 2019

ORDERED that Respondent Franklin H. Levin shall show cause why his real estate license 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 this Order to Show Cause, state the factual basis of each and every factual allegation denied, and assert any defenses that Respondent intends to present in the event that this matter is deemed a contested case and a plenary hearing is held; and

IT IS FURTHER ORDERED that failure to comply with all of 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 Commission will review this Order to Show Cause and Answer(s) filed, if any, at a meeting scheduled on or after the 22<sup>nd</sup> day of Oct., 2019 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

