

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION,) DOCKET NUMBER: CUM-19- 018
) (REC Ref. No.10008782)
 Complainant)
)
 v.) ORDER TO SHOW CAUSE
)
 MICHAEL SPINELLI,)
)
 licensed New Jersey real estate broker,)
)
 (RB 1109689), broker of record of)
)
 ACKERMAN SPINELLI REALTY, LLC)
)
 (1889381),)
)
 Respondent.)

THIS MATTER being commenced by the New Jersey Real Estate Commission in the Department of Banking and Insurance, State of New Jersey (“Commission”), 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, and it appearing that:

1. On or about February 8, 2011, Respondent Michael Spinelli (“Spinelli”) was first licensed as a real estate salesperson in the State of New Jersey and obtained his broker-salesperson license on January 12, 2016; and

2. On or about January 18, 2018, Spinelli was licensed as broker of record for Ackerman Spinelli Realty LLC, (“Ackerman Spinelli”) with offices located at 782 Brewster Road, Suite A6, Vineland, New Jersey; and

COUNT ONE

3. On or about April 15, 2019 Richard A. Fanucci (“Fanucci”) contacted Spinelli regarding the rental of a townhome located at 3001 E. Chestnut Avenue, Unit B-12, Vineland, New Jersey, real property owned by an entity known as Ackerman Real Estate LLC (“Ackerman”); and

4. At the time Fanucci contacted Spinelli about the rental, they discussed the terms of the lease for the rental and Fanucci gave personal check # 783 in the amount of \$500.00 payable to Ackerman Spinelli, as and for the deposit on this rental unit; and

5. On or about early May 2019 when Fanucci received the actual lease agreement for the unit from Spinelli, it did not embody the terms he wanted and Fanucci subsequently canceled the transaction and requested the return of his deposit money; and

6. When Ackerman, landlord/owner of the property, agreed to refund the deposit, it was learned that Spinelli's real estate firm Ackerman Spinelli had not deposited the money into its real estate brokerage escrow account as required but it inadvertently deposited the funds directly into the operating business account of Ackerman, the landlord/owner of the property; and

7. When Farucci's check was deposited on May 6, 2019, it was approximately 22 days after Spinelli received these funds from Farucci; and

8. On or about May 15, 2019, Ackerman refunded the \$500 deposit to Fanucci with its business check # 1051; and

9. Spinelli's conduct outlined above constitutes a violation of N.J.A.C. 11:5-5.1(c)2 and N.J.A.C. 11:5-5.1(c)3 and (e), in that he failed to maintain and deposit promptly in a special account in an authorized financial institution, separate and apart from personal or other business accounts, all money received by a real estate broker acting in said capacity, or as escrow agent, or as the temporary custodian of the funds of others in a real estate transaction;

And for good cause shown,

IT IS ON THIS 17th DAY OF October 2019

ORDERED that Spinelli shall show cause why his real estate license and/or eligibility to hold a 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. Spinelli 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, Spinelli'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 Spinelli 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(s) 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 Spinelli 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 Spinelli as provided in N.J.S.A. 45:15-18, which service may be accomplished by serving a copy of this Order

Spinelli personally, or by delivering a copy thereof to his last known business address via certified mail.



**Marlene Caride
Commissioner
New Jersey Department of Banking and Insurance**