

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION) DOCKET NUMBER REC-20-002
) (REC File No. 10007749)
Complainant,)
) ORDER TO SHOW CAUSE
v.)
)
JOSE RODRIGUES, licensed New Jersey)
real estate broker-salesperson (Ref. No. 0568460))
)
Respondent.)

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, 45:15-17.1, 45:15-18 and N.J.A.C. 11:5-1.1 to -12.18, and it appearing that:

1. Respondent, Jose Rodrigues, (“Rodrigues”) is a licensed New Jersey real estate broker-salesperson, who was first licensed on August 11, 2005. Rodrigues is currently licensed through Maxwell Real Estate Advisors LLC, d/b/a Keller Williams Park Views, a licensed New Jersey real estate broker, whose main office is located at 301 Route 17 North, Suite 204, Rutherford, New Jersey 07070. From January 7, 2013 until March 10, 2020, and at all times relevant to this matter, Rodrigues was licensed through Elite Realty Group, Inc., d/b/a Exit Elite Realty Group, a licensed New Jersey real estate broker, whose main office is located at 235 Harrison Ave., Harrison, New Jersey 07029; and

2. At all relevant times herein, Rodrigues acted as listing agent in the sale of the property located at 149 Netherwood Avenue, North Plainfield, NJ (the “Property”); and

3. The Property was being listed as a short-sale, meaning that it was being marketed for sale at a price that was less than the amount the seller owed the mortgagee (lender) of the seller's mortgage loan. Therefore, the ultimate sale price required approval by the seller's lender in order for any transaction to proceed; and

4. Upon information and belief, Rodrigues was familiar with the short sale process and was aware that the final sale price required formal approval by the seller's lender; and

5. On or about February 5, 2018, Rodrigues listed the Property on the Garden State Multiple Listing Service (the "GSMLS"). The list price was \$189,000. In the "REMARKS" section of the GSMLS listing page, Rodrigues included the following: "SHORT SALE APPROVED \$240,000 READY TO CLOSE." The advertisement did not contain any qualifying information, indicating that the price being advertised as "approved" was in fact subject to formal approval by the seller's lender; and

6. Rodrigues never obtained formal approval of the sale price of \$240,000 from the seller's lender prior to posting the above advertisement on the GSMLS; and

7. On or about February 10, 2018, Brian Oliver (the "Buyer") submitted an all-cash offer to purchase the Property from the seller for \$240,000 to Rodrigues; and

8. The Buyer was represented by licensed real estate salesperson, Manuel Gonzalez, in the subject transaction; and

9. On or about February 12, 2018, the seller of the Property accepted the Buyer's offer and executed the contract of sale. The contract included that the sale price was subject to approval by the seller's lender. After the conclusion of the attorney review period, the contract of sale was sent to the seller's lender for approval; and

10. On or about March 13, 2018, the seller's lender rejected the sale price of \$240,000 and made a counter-offer for \$268,000, which was rejected by the Buyer. The seller's lender submitted subsequent counter-offers in the amounts of \$260,000 and \$248,000 respectively, which the Buyer did not accept.

Violations

11. Rodrigues' conduct is in violation of N.J.A.C. 11:5-6.1(r), in that the language, "SHORT SALE APPROVED \$240,000 READY TO CLOSE," which he included in his advertisement of the Property on the GSMLS, constitutes a false, misleading or deceptive claim; and

12. Rodrigues' conduct is in violation of N.J.S.A. 45:15-17(e), in that by including the aforementioned language in his advertisement of the Property on the GSMLS, without including any qualifying or clarifying language, constitutes conduct demonstrating incompetency or dishonesty.

And for good cause shown,

IT IS on this 10th day of December, 2020

ORDERED that Respondent, Jose Rodrigues, 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 9th day of February, 2021 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 Respondent 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

