

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER REC-E-22-001
)	(REC File No. 10010130)
Complainant,)	
)	ORDER TO SHOW CAUSE
v.)	
)	
JOAO PAULO BARROS LEMES, licensed New)	
Jersey real estate salesperson (Ref. No. 1969403))	
)	
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, 45:15-18 and N.J.A.C. 11:5-1.1 to -12.18, and it appearing that:

1. Joao Paulo Barros Lemes (“Lemes”) is an actively licensed New Jersey real estate salesperson, first licensed in New Jersey on March 28, 2019. Lemes’s license is currently affiliated with SJI Holdings LLC, d/b/a Realty Mark Properties, licensed New Jersey real estate broker, whose main New Jersey office is located at 2 Greentree Center, 9000 Lincoln Drive East, Suite 120A, Marlton, NJ 08053. At all times relevant to this matter, Lemes also used the name “John Lemes”; and

2. Lemes & Oliveira Construction LLC (“L&O”) is a domestic limited liability company, formed on October 8, 2018. The Certificate of Formation for L&O, issued by the New Jersey Department of Treasury, lists “Joao Lemes” as a “Member/Manager” and lists the main

business address for L&O as the same address on file with the Commission as Lemes' home address; and

3. At all relevant times herein, Lemes was a member and an owner of L&O; and

4. REI Executive Group LLC ("REI") is a Georgia Limited Liability Company, formed under the laws of Georgia on July 18, 2018. REI became registered as a foreign limited liability company in New Jersey on November 1, 2018. The Certificate of Registration for REI, issued by the New Jersey Department of Treasury, designates an individual by the name of Pamela Fenceroy as an authorized representative of REI; and

5. Upon information and belief, Lemes has no ownership interest in, or formal affiliation to, REI; and

COUNT I

6. On September 28, 2018, REI entered into a contract to purchase the property located at 2301 Church Road, Cinnaminson, New Jersey (the "Property") from Fannie Mae. The purchase price listed in the contract of sale was \$180,000. Licensed New Jersey real estate salesperson Susan Pierce represented both buyer and seller in the capacity of dual agent. The contract of sale and all other transactional documents were signed by Pamela Fenceroy, on behalf of REI; and

7. Lemes acted as the representative for REI for the purpose of REI's purchase of the Property. His role included coordinating inspections and potential repair issues concerning the Property, as well as communicating with relevant parties, including Ms. Pierce, on behalf of REI. Lemes did not hold a real estate license in New Jersey during times relevant to REI's purchase of the Property;

8. On November 8, 2018, Lemes sent an email to Ms. Pierce, under the subject heading “2301 Church Road, Cinnaminson NJ” stating the following:

The inspector was there today A&L Septic Services.
Currently there is cesspool there and
They said it’s not allowed to sell property with cesspools anymore.
He is gonna get me an estimated, [*sic*] but it’s gonna be between \$8,000-\$11,000.
Can you please bring it up to the bank and ask them to negotiates [*sic*] the selling price or to it fix?
I need to get it resolved with this one, \$18,000 sitting there where we could have gotten other properties. ...

9. The email address used by Lemes to send the above correspondence is the same email address as the one listed within the Commission’s licensee contact information records for Lemes; and

10. On or about November 13, 2018, Lemes obtained an estimate to install a septic system from A&L Septic Service for a price of \$14,000; and

11. The estimate was submitted to the seller of the Property, who in turn, reduced the sale price from \$180,000 to \$166,000 to adjust the price by the estimated cost to convert the cesspool on the Property to a septic system; and

12. The transaction closed on November 29, 2018, at which time, title to the Property was transferred from Fannie Mae to REI; and

13. On November 29, 2018, the same date that REI’s purchase of the Property closed, REI conveyed title to the Property to L&O by special warranty deed. The deed indicates that L&O paid \$184,000 to REI in exchange for title to the Property; and

14. During the time period relevant to this matter, Lemes never converted the cesspool to a septic system or otherwise remediated the cesspool on the Property; and

15. On April 11, 2019, Lemes, now licensed as a New Jersey real estate salesperson, marketed the Property for sale on the Bright Multiple Listing Service. The listing page indicated “Public Septic” as the sewage type for the Property; and

16. On or about July 26, 2019, L&O entered into a contract to sell the Property to consumer Teresa Soca (the “Buyer”). Lemes acted as listing agent, and the Buyer was represented by licensed New Jersey real estate salesperson Kay Becnel. The contract of sale, which was signed by Lemes on behalf of L&O, stated that there was no cesspool on the Property; and

17. In fact, Lemes never disclosed the existence of a cesspool to either the Buyer or her agent, Ms. Becnel, at any point in the course of the transaction; and

18. Prior to the date the transaction was scheduled to close, the Buyer obtained a septic inspection of the Property, which uncovered the existence of a 2-channel cesspool; and

19. When questioned by the Buyer and Ms. Becnel, Lemes denied any prior knowledge of the cesspool’s existence; and

20. Upon information and belief, Lemes refused to complete any work to remediate the cesspool or to provide the Buyer with a credit or other adjustment to the contract price. Lemes represented to Ms. Becnel the true owner of the Property was his brother and that Lemes would need to obtain authorization for any expenditure associated with remediation from him. Lemes subsequently indicated that he was unable to reach his brother and refused to address the cesspool; and

21. The transaction was canceled and closing of title never occurred; and

22. At all times relevant to L&O’s agreement to sell the Property to the Buyer, the Property was owned by L&O; and

COUNT II

23. On June 22, 2020, Lemes was interviewed by the Commission Investigator assigned to this matter (the “Investigator”). During the interview, Lemes denied having any knowledge of the existence of a cesspool on the Property; and

24. On June 23, 2020, the Investigator sent email correspondence to Lemes requesting the following information: 1) a written statement regarding his alleged misconduct in the attempted sale of the Property to the Buyer; 2) copies of any and all documents related to the attempted sale of the Property to the Buyer; 3) a written statement specifically addressing the email he sent to Ms. Susan Pierce on November 18, 2018, indicating his knowledge of a cesspool on the Property (see ¶8 above); and 4) documentation related to Lemes’ ownership interest in the Property as a principal of L&O; and

25. On July 7, 2020, having received no response from Lemes, the Investigator sent another copy of the correspondence described above, in ¶24, to Lemes via email; and

26. On July 9, Lemes submitted a written statement to the Investigator. In the statement, Lemes indicated that the Property was purchased by his brother in 2018 and again denies that he had prior knowledge of the cesspool. The statement did not address the Investigator’s questions regarding the November 18, 2018 email to Ms. Pierce (see ¶8 above). Lemes also failed to include any of the documentation requested by the Investigator. The statement was signed “John Lemes”; and

27. To date, Lemes has failed to produce the documentation requested by the Investigator, who was duly authorized to demand same pursuant to N.J.S.A. 45:15-17; and

28. Upon information and belief, Lemes' brother, if said individual exists at all, has never had any interest in the Property, nor any involvement in any transaction concerning the Property; and

VIOLATIONS

29. Lemes violated N.J.A.C. 11:5-6.4(c), in that he failed to disclose the existence of a cesspool on the Property to the Buyer, which information was known to Lemes and was material to the physical condition of the Property; and

30. Lemes's conduct violated N.J.S.A. 45:15-17(a) (3 counts) as follows:

a. Lemes advertised the Property as having a "Public Septic" sewage system on the Bright Multiple Listing Service, when in fact he was aware that statement was false and knew of the existence of a cesspool located on the Property, which conduct constitutes a substantial misrepresentation; and

b. Lemes falsely represented to the Buyer that Lemes' brother was the previous purchaser or owner of the Property, when in fact the Property was previously purchased and owned by L&O, a company owned by Lemes, which conduct constitutes a substantial misrepresentation; and

c. Lemes falsely represented to the Investigator that Lemes' brother was the previous purchaser or owner of the Property, when in fact the Property was previously purchased and owned by L&O, a company owned by Lemes, which conduct constitutes a substantial misrepresentation; and

31. Lemes violated N.J.S.A. 45:15-17(c) by misrepresenting the type of sewage system servicing the Property to the Buyer, as set forth more fully above. The misrepresentation was

flagrant because Lemes had prior knowledge of the existence of the cesspool, the approximate cost to remediate the issue and an awareness of the issues associated with real estate transactions involving such properties. Further, by perpetuating this misrepresentation through multiple listing service advertisements, written misrepresentations in the in the contract to sell the Property to the Buyer, verbal misrepresentations to the Buyer and her agent, and attempting to obscure the existence of the cesspool throughout the course of the L&O's attempted sale to the Buyer, as more fully described above, Lemes' conduct constitutes a continued course of misrepresentation; and

32. Lemes violated N.J.S.A. 45:15-17(l), in that by misrepresenting the type of sewage system servicing the Property and falsely denying his knowledge of the existences of a cesspool to the Buyer, her agent and the Investigator, as more fully described above, Lemes engaged in conduct constituting fraud or dishonest dealing; and

33. Lemes violated N.J.S.A. 45:15-17(e), in that by failing to provide documentation and a written statement addressing specific questions as requested by a Commission Investigator, Lemes failed to fully cooperate with the Commission's investigation of this matter, which conduct demonstrates unworthiness for licensure; and

34. Lemes violated N.J.A.C. 11:5-6.4(a), in that he violated his duty to deal fairly with the Buyer, by obscuring the existence of a cesspool on the Property, which Lemes had direct first-hand knowledge of by virtue of his role in REI's purchase of the Property and his then-current ownership interest in the Property; and

35. Lemes does not possess the good moral character, honesty, trustworthiness and integrity required for licensure pursuant to N.J.S.A. 45:15-9(a).

And for good cause shown,

IT IS on this 5 day of January, 2022

ORDERED that Respondent Joao Paulos Barros Lemes 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 to -12.18 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 23rd day of February, 2022 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
New Jersey Real Estate Commission