

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER CAP-18-005
)	(REC Ref. No. 10006245)
Complainant,)	
)	CONSENT ORDER
v.)	
)	
Andrew Fasy, licensed New Jersey real estate)	
broker-salesperson (Ref. No. 8835313))	
)	
Respondent.)	

THIS MATTER having been opened to the New Jersey Real Estate Commission ("Commission") in the Department of Banking and Insurance, State of New Jersey, upon information that Andrew Fasy ("Fasy"), a licensed real estate broker-salesperson, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Fasy is subject to the provisions of the New Jersey Real Estate Licensing Law, N.J.S.A. 45:15-1 et seq.; and

WHEREAS the Real Estate Commission staff has alleged that Fasy may have violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS Fasy acknowledges that he is aware of his right to a plenary hearing on any violations which the Commission may allege he has committed and having had the advice of counsel on matters to which this Consent Order pertains, he is knowingly and voluntarily waiving the right to a hearing; and

WHEREAS the Commission and Fasy, in order to avoid the costs and uncertainty of further litigation and to resolve the matter with finality, hereby agree to this Consent Order, fully disposing of all the issues in controversy in this matter with prejudice; and

WHEREAS the terms of this Consent Order were approved by the Commission at a regular meeting on Tuesday, June 12, 2018; and

IT APPEARING that the matter against Fasy should be resolved upon the consent of the parties, without resort to a formal hearing on the aforementioned violations, and further good cause appearing;

NOW, THEREFORE, IT IS on this 18th day of June, 2018

ORDERED AND AGREED that Respondent Fasy admits the following facts:

1. Respondent Andrew Fasy is an actively licensed New Jersey real estate broker-salesperson, who was first licensed in 1988, and is currently licensed with Long & Foster Real Estate Inc. Fasy is currently employed as branch office supervisor at the Sea Isle City, NJ branch office, which is located at 4914 Landis Avenue, Sea Isle City, New Jersey (“Long & Foster - Sea Isle”); and

2. As branch office supervisor, Fasy is responsible for the direct supervision of Long & Foster – Sea Isle and the activities of all licensees working from that office; and

3. In or around the month of August, 2017, Long & Foster – Sea Isle sent out an email advertisement to members of the public, advertising thirteen properties located in Sea Isle City, New Jersey as “pocket listings.” Specifically, the advertisement states “These ‘Pocket Listings’ are off-market properties offered for sale exclusively through Long & Foster Sea Isle.” The email also lists the addresses of the thirteen properties being so advertised; and

4. The addresses of the subject properties are listed in Appendix A of the Order to Show Cause served on Fasy in this matter on or about February 26, 2018; and

5. On or about August 7, 2017, Fasy was interviewed by a Commission investigator regarding the thirteen listings described above. During that interview, Fasy stated that the properties advertised as “pocket listings” were exclusive listings with Waiver of Broker Cooperation forms executed by the sellers. The Commission investigator requested that Fasy submit documentation to corroborate his statement; and

6. On or about August 8, 2017, Fasy submitted listing agreements and Waiver of Broker Cooperation forms, purportedly signed by the owners of each property, for each of the subject properties to the assigned Commission investigator; and

7. On or about August 15, 2017, a follow-up interview was conducted by a Commission investigator with Fasy regarding the authenticity of the listing agreements and Waiver of Broker Cooperation forms. During that interview, Fasy admitted that he created listing agreements and Waiver of Broker Cooperation forms after the fact, falsified numerous electronic and physical signatures of the sellers,

and knowingly submitted said documents to be used in connection with the Commission's investigation;
and

8. As a result of the Commission's investigation into this matter, it was discovered that:
 - a. Four of the subject properties were marketed without listing agreements being obtained from the sellers first; and
 - b. Ten of the subject properties were marketed as "pocket listings" without Waiver of Broker Cooperation forms or other written authorization to market the properties in a less than fully cooperative way being obtained from the sellers first; and
 - c. Prior to the opening of the Commission's investigation into the instant matter, Fasy signed the names of the sellers on listing agreements for four of the subject properties and backdated the signatures; and
 - d. Prior to the opening of the Commission's investigation into the instant matter, Waiver of Broker Cooperation forms were signed by the sellers for six of the subject properties; and
 - e. Prior to the opening of the Commission's investigation into the instant matter, Fasy signed the names of the sellers on Waiver of Broker Cooperation forms for four of the subject properties and backdated the signatures; and it is further

ORDERED AND AGREED that based on the above facts, Respondent Fasy admits to the following:

1. Respondent Fasy's conduct is in violation of N.J.A.C. 11:5-6.4(f)(2), (10 counts) in that Fasy failed to obtain written authorization from the owners of ten of the subject properties prior to marketing those properties in a less than fully cooperative manner; and
2. Respondent Andrew Fasy's conduct is in violation of N.J.S.A. 45:15-17(a), in that Fasy made a substantial misrepresentation by generating documentation to support the marketing of the subject properties after the fact, as described above; signing the names of the sellers on said documents; and then

knowingly submitting them to a Commission investigator to be used in connection with a Commission investigation, while representing that the signatures were the genuine signatures of the sellers; and

3. Respondent Andrew Fasy's conduct is in violation of N.J.S.A. 45:15-17(e), in that Fasy's conduct as described above demonstrates incompetency and unworthiness. Specifically,

- a. by marketing ten of the subject properties as "pocket listings" without first obtaining the appropriate documentation from the sellers, as described above, Respondent Fasy engaged in conduct which demonstrates incompetency; and
- b. by failing to fully cooperate in the Commission's investigation into the instant matter, as described above, Respondent Fasy engaged in conduct which demonstrates unworthiness for licensure.

Based on the above, it is hereby:

ORDERED AND AGREED that Fasy shall pay a fine in the amount of five thousand dollars (\$5,000). The fine shall be paid in full within thirty (30) days of the approval of this Consent Order. The fine shall be paid by certified check, cashier's check or money order made payable to the "State of New Jersey" and sent to the Division of Anti-Fraud Compliance/Collection Section, Department of Banking and Insurance, P.O. Box 325, Trenton, New Jersey, 08625. All unpaid fines will be referred for collection and may result in a lien/judgment being placed on property, interception of state income tax refunds through the Set Off of Individual Liability (SOIL) program in the Division of Taxation and/or levy on bank accounts; and it is further

ORDERED AND AGREED that Fasy's real estate broker-salesperson's license shall be revoked for a period of three (3) years from the full execution of this Consent Order. Fasy shall not be eligible to hold any real estate license during the period of revocation. Upon completion of the period of revocation, Fasy shall be required to completely requalify for licensure in order to be eligible for the issuance of any real estate license; and it is further

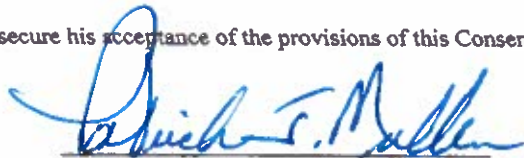
ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10006245. The Commission reserves the right to take further administrative action if it obtains any other information that Fasy may have violated the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq. or corresponding regulations, N.J.A.C. 11:5-1.1 et seq.; and it is further

ORDERED AND AGREED that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and it is further

ORDERED AND AGREED that by signing below, Fasy confirms that:

- a. He is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair his ability to knowingly and voluntarily execute this Consent Order; and
- b. He has received the advice of legal counsel on this matter and on the terms of the Consent Order, that he is entering into this agreement knowingly and voluntarily, that he has not been subject to any coercion or threats regarding the execution of this Consent Order and that other than the other terms set forth above, no promises, representations or inducements have been made to him to secure his acceptance of the provisions of this Consent Order.

Dated: June 18, 2018



Patrick J. Mullen
Director of Banking
New Jersey Department of Banking and Insurance
Real Estate Commission

Dated: 6/8, 2018



Andrew Fasy

Dated: 6/8, 2018



Robert J. Mellillo, Esq.
Attorney for Respondent