

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER BER-18-004
)	(REC Ref. No. 10006134)
Complainant,)	
)	CONSENT ORDER
v.)	
)	
Victor Polce, licensed New Jersey real estate)	
broker-salesperson (Ref. No. 1005404))	
)	
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 Victor Polce ("Polce"), a licensed real estate broker-salesperson, may have violated provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Polce 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 Polce has violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS Polce 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 Polce, 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, August 14, 2018; and

IT APPEARING that the matter against Polce 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 23rd day of August, 2018

ORDERED AND AGREED that Respondent Polce admits the following facts:

1. Polce is an actively licensed New Jersey real estate broker-salesperson, who was first licensed in 2010, and is currently licensed with RWSP Realty LLC, d/b/a Better Homes and Gardens Real Estate Rand Realty (“Rand Realty”). Polce is affiliated with Rand Realty’s branch office located at 227 Closter Dock Road, Closter, New Jersey 07624; and

2. On or about May 26, 2017, Polce, on behalf of Rand Realty, entered into a written agreement (the “Listing Agreement”) with Brian Shannahan (the “Seller”) to list the property located at 59 Ogle Road, Old Tappan, New Jersey 07675 (the “Property”) for sale. The original price stated in the Listing Agreement was \$824,999. At the time it was initially executed, the Listing Agreement did not include any signature dates, nor an effective date and also did not specify a definite terminal date; and

3. Shortly after entering into the Listing Agreement as described above, Polce amended the list price to \$849,999, at the request of the Seller. Polce also inserted into the Listing Agreement, an effective date of June 2, 2017 and signature dates of June 2, 2017, with the Seller’s authorization; and

4. The Listing Agreement provided that Rand Realty was owed 4.5% of the sale price on the Property as commission and that Rand Realty was offering 1.5% of the sale price as commission to potential cooperating brokers; and

5. Polce never provided the Seller with a fully executed copy of the Listing Agreement with the amendments described above; and

6. On or about June 2, 2017, Polce entered the listing into the New Jersey Multiple Listing Service, with a list price of \$849,999; and

7. Polce and the Seller also executed an “Informed Consent to Dual Agency” form, authorizing Polce to act as a disclosed dual agent in the subject transaction if the opportunity arose; and

8. On or about June 6, 2017, Polce presented a verbal offer to purchase the Property for \$720,000 to the Seller. The offer was made by Polce’s client. This offer was rejected by the Seller; and

9. Between the dates of June 6, 2017 and June 15, 2017, Polce presented two additional verbal offers to purchase the Property to the Seller, on behalf of Polce's buyer clients. The offer prices were \$770,000 and \$825,000 respectively. These offers were rejected by the Seller; and

10. On or about June 16, 2017, New Jersey real estate salesperson Jennifer Romero ("Romero") with Keller Williams – Village Square Realty contacted Polce to make an offer on the Property. Romero stated to Polce that she had a full-price, all-cash offer that she would like to present to the Seller. In response, Polce stated that offers to purchase the Property were no longer being accepted; and

11. On or about June 20, 2017, Romero submitted a written offer to purchase the Property for \$850,000 to Polce, on behalf of her client Gialluisi Custom Homes LLC. Less than 24 hours thereafter, Romero also submitted a copy of the above offer directly to the Seller's attorney; and

12. On or about June 24, 2017, the Romero offer was withdrawn; and

13. Thereafter, the Seller was provided with an unconditional release from the Listing Agreement. Polce did not receive a commission or any other compensation with regard to the subject transaction.

And it is further

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

1. Respondent Victor Polce's conduct is in violation of N.J.A.C. 11:6.2(a)(4) by failing to provide the Seller with a copy of the fully executed Listing Agreement, as described above; and

2. Respondent Victor Polce's conduct is in violation of N.J.A.C. 11:5-6.4(a), (f) and (g) in that Polce failed to protect and promote, as he would his own, the interests of his client, by discouraging and hindering the presentation of a higher offer on the Property, while negotiating lower offers as a dual agent. Further, Polce's failure to present an offer to his client, and his conduct as described above, demonstrates that Polce did not cooperate fully with all New Jersey licensees and did not meet his obligation

of absolute fidelity to his client's interests and of dealing fairly with all parties to the subject transaction;
and

3. Respondent Victor Polce's conduct is in violation of N.J.S.A. 45:15-17(a) in that he misrepresented to New Jersey real estate salesperson Jennifer Romero that the Seller was no longer accepting offers on the Property, as described above.

Based on the above, it is hereby:

ORDERED AND AGREED that Polce 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 full execution 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 Polce shall complete a 30-hour broker pre-license education course in the subject area of "brokers' ethics and agency law and relationships." Proof of completion of the same shall be submitted to the Real Estate Commission staff within ninety (90) days of the full execution of this Consent Order; and it is further

ORDERED AND AGREED that Polce's real estate broker-salesperson's license shall be suspended for a period of one (1) year from the date of the full execution of this Consent Order. Polce shall be permitted to retain his real estate salesperson's license. Polce must pay the fine in full and complete the education prescribed herein in order to reinstate his broker-salesperson's license upon completion of the period of suspension; and it is further

ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10006134. The Commission reserves the right to take further

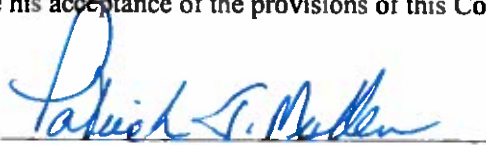
administrative action if it obtains any other information that Polce may have violated the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq. or corresponding regulations, N.J.A.C. 11:5-1.1 et seq.; and it is further

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, Polce 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: August 23, 2018



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

Dated: 8/14, 2018



Victor Polce

Dated: 8-20, 2018



Luke J. Kealy, Esq.
Attorney for Respondent