

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER MOR-18-009
	)	(REC Ref. No. 10006602)
Complainant,	)	
	)	ORDER TO SHOW CAUSE
v.	)	
	)	
VANESSA BROWN, licensed New Jersey	)	
real estate broker (Ref. No. 8734053)	)	
	)	
Respondent.	)	

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THIS MATTER being commenced by the New Jersey Real Estate Commission (“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, 45:15-19.2 and N.J.A.C. 11:5-1.1 et seq., and it appearing that:

1. Respondent Vanessa Brown (“Brown”) is an actively licensed New Jersey real estate broker, who was first licensed on March 19, 1990, and is currently licensed as broker of record of Brown Executive Realty, LLC (“Brown Realty”) whose office is located at 31 South Street, Suite 312, Morristown, New Jersey 07960; and

2. Brown Realty is located in a building containing several separate businesses and office spaces. The name of the brokerage is located in the building’s directory, however no exterior signage exists, as required by the Commission’s regulations; and

3. At all relevant times herein, Brown represented Randall and Haidiely Padilla Gamboa (the “Buyers”) as buyer’s agent. At the time the Buyers engaged Brown to represent them in finding and purchasing a property, they were renters at the property located at 248 Route 46, Mine Hill, New Jersey (the “Property”); and

4. On or about May 8, 2017, the Property was listed for sale; and

5. On or about May 14, 2017, the Buyers provided Brown with a check in the amount of \$10,000, as a deposit for a property they were interested in purchasing in Mine Hill, New Jersey; and

6. On or about May 15, 2017, Brown deposited the Buyers' check described above into the Brown Realty trust account; and

7. The Buyers did not end up purchasing the property referenced in ¶ 5, but they Brown to retain the funds to be used as a deposit on a future purchase while the Buyers continued to view other properties; and

8. On or about July 4, 2017, the Buyers provided Brown with check number 456 in the amount of \$10,000, as additional deposit monies to be used in the prospective purchase of the Property; and

9. On or about July 21, 2017, Brown deposited the Buyers' check number 456 into the Brown Realty trust account; and

10. On or about July 22, 2017 the Buyers entered into a contract to purchase the Property. The contract of sale stated that deposits in the total amount of \$20,000 were to be paid by the Buyers. The contract further stated that the deposit monies were to be held in the trust account of Brown Realty until closing occurred, at which time all monies were to be released to the seller; and

11. During the attorney review period, the terms of the contract of sale were modified such that it was agreed that all deposits were to be held in the attorney trust account of the sellers' attorney; and

12. The deposit monies were never transferred to the sellers' attorney; and

13. Closing was scheduled to take place on October 27, 2017. In the time period leading up to the scheduled closing date, the sellers' attorney attempted to contact Brown numerous times, without success, to facilitate the release of the Buyers' deposit monies or arrange for the funds to be delivered at closing. After failing to respond for several days, on the day that closing was scheduled to take place, Brown represented to the sellers' attorney that the funds would be released to his office on October 31, 2017; and

14. Closing occurred on October 27, 2017; and

15. Brown failed to release, or make appropriate arrangements for the release of, the deposit monies to the sellers' attorney on October 31, 2017. Thereafter, the sellers of the Property, through their

attorney, requested the release of the Buyers' deposit monies from Brown on numerous occasions. Brown continued making promises to deliver the deposit monies and failed to do so; and

16. On or about November 20, 2017, a complaint was filed with the Commission by the sellers' attorney, alleging that Brown had not released the \$20,000 in deposit monies owed to the sellers of the Property to the sellers or the sellers' attorney; and

17. On or about December 4, 2017, a Commission investigator emailed Brown to schedule an interview regarding the content of the complaint received by the Commission. In the email, the investigator instructed Brown to furnish escrow statements, a general ledger and other transaction files for Brown Realty at the time of the interview; and

18. On December 11, 2017, Brown was interviewed by a Commission investigator. No escrow account statements, general ledgers or transactional files were available for the investigator's review. Brown stated to Commission investigator that all of her records are maintained by her accountant and not available for on-site inspection at the office location of Brown Realty. It was further discovered that Brown had not yet released the deposit funds to the sellers of the Property or to their attorney. Brown presented two cashier's checks made payable to each of the sellers to Commission investigator, and represented that the checks would be delivered to the sellers' attorney that same day. The Commission investigator requested that Brown provide bank account statements for Brown Realty's escrow and operating accounts for 2017 as soon as possible; and

19. Brown subsequently provided the requested records for the Commission's review. A review of the Brown Executive LLC trust account bank statement revealed the following information:

- a. The beginning balance of the trust account for May of 2017 was \$11.12. There was one deposit for \$10,000, which corresponded with the deposit of the Buyers' deposit check referenced in ¶ 4 above. During the month of May, eight checks were drawn from the account and made payable to Brown, in the total amount of \$9,250. Additionally, one check was written to Calvary Baptist Church in the

amount of \$30. The ending balance in the trust account on May 30, 2017 was \$731.12; and

- b. In June of 2017, Brown deposited \$200, and wrote two checks from the trust account. One of the checks was made payable to Brown in the amount of \$500, and the other check was made payable to Louis Maglia & Son in the amount of \$425. The remaining balance in the trust account was \$6.12.
- c. The beginning balance of the trust account for July of 2017 was \$6.12. There were three deposits during the month of July, in the total amount of \$26,655. One of the deposits corresponded with the deposit of the Buyers' deposit check number 456 in the amount of \$10,000. Nine checks were written from the trust account to Vanessa Brown, in the total amount of \$13,310; one check was written to Garden State MLS, in the amount of \$75. Additionally, \$5,000 was withdrawn from the trust account on July 7, 2017. The ending balance in the trust account on July 28, 2017 was \$8,276.12; and
- d. From August 1, 2017 through November 30, 2017, Brown continued to issue checks from the Brown Realty trust account, made payable to herself, leaving a balance of \$739.13 as of November 30, 2017.

20. During relevant times to the subject transaction, Brown Realty's escrow account was out of trust; and

21. Respondent Brown's conduct is in violation of N.J.A.C. 11:5-6.1(a), in that Brown failed to conspicuously display, on the exterior of Brown Realty, the regular business name of the brokerage and the name of the broker of record of the firm with the words "Licensed Real Estate Broker;" and

22. Respondent Brown's conduct is in violation of N.J.A.C 11:5-5.1(e), in that Brown failed to deposit the Buyer's deposit check number 456 into the Brown Realty trust account within five days of her receipt of those funds; and

23. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(d), in that Brown failed to account for and/or pay over the Buyers' deposit funds to the sellers, as described above; and

24. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(o), in that Brown mingled the deposit money of principals, the Buyers, with her own and failed to segregate and maintain the Buyers' deposit monies in a special account, separate and apart from personal or other business accounts; and

25. Respondent Brown's conduct is in violation of N.J.A.C. 11:5-5.4(e) and 5.5(a), in that Brown failed to maintain the financial books and other records described in N.J.A.C. 11:5-5.4(a) for Brown Realty, located at the primary office location, and Brown failed to make those books and records available for inspection by Commission investigators; and

26. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(e), unworthiness, in that Brown's failure to fully cooperate with the Commission's investigation into this matter demonstrates unworthiness for licensure; and

27. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(e), incompetency, in that Brown's conduct, as described above, demonstrates incompetency; and

28. Respondent Brown's conduct is in violation of N.J.S.A. 45:15-17(a), in that Brown made a false promise to the sellers of Property by promising that she would be release the deposit funds to the sellers or to the sellers' attorney within three days of the scheduled closing, as described above.

And for good cause shown,

IT IS on this 2<sup>nd</sup> day of May, 2018

ORDERED that Respondent Vanessa Brown shall show cause why her 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

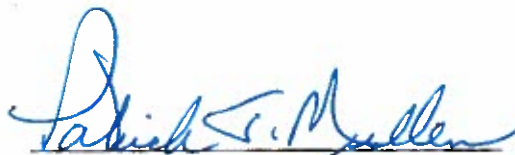
IT IS FURTHER ORDERED that failure to comply with all of the requirements of N.J.A.C. 11:5-11.2 may result in a determination that there are no material facts or issues of law in dispute and any presentation made to the Commission will be limited to the issue of the severity of any sanction or penalty 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 12<sup>th</sup> day of June, 2018 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 her last known business address via certified mail.



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