

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER BUR-16-025
	)	(REC Ref. No. 10002658)
Complainant,	)	
	)	CONSENT ORDER
v.	)	
	)	
KATHRYN HORCH, licensed New Jersey	)	
real estate salesperson, (Ref. No. 0679591)	)	
	)	
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 Kathryn Horch ("Horch"), a licensed real estate salesperson, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Horch 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 Horch may have violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

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

WHEREAS the Commission and Horch, 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 November 28, 2017; and

IT APPEARING that the matter against Horch 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 28<sup>th</sup> day of November, 2017

ORDERED AND AGREED that Respondent Horch admits the following facts:

1. Horch is a licensed New Jersey real estate salesperson, who is currently licensed with RM Realty Associates of Medford LLC d/b/a Keller Williams Realty, the Borden/Alessi Group, whose office is located at 620 Stokes Road, Suite A-D, Medford, New Jersey 08055; and

2. On or about September 9, 2014, Mark McDowell ("Buyer") entered into a contract of sale with Judith Lynn Dean, Deborah Jean Stevens, and Oren H. Stevens Jr. (collectively "Sellers") for the purchase of real property located at 168 Skeet Road, Medford, New Jersey 08055 ("Property"); and

3. Horch acted as the Sellers' agent and the Buyer was represented by licensed New Jersey real estate salesperson Francis "Frank" Fahr; and

4. Horch and Fahr were aware of a mold presence in the basement and Horch represents that she believed they were in agreement that Sellers would be responsible for the cost to remediate the mold presence in the basement; and

5. In or around October of 2014, a mold evaluation of the Property was conducted by Quality Environmental Concepts, a mold inspection company hired by the Sellers. The mold inspector's findings were detailed in a report (the "Report"), which was sent to Horch in an e-mail on October 8, 2014; and

6. In the mold inspector's e-mail to Horch, he states, in part, "[t]he work source of the suspect mold throughout the house was not present as indicated by the home inspector's report however the basement and crawlspace had some issues as well as the exterior storm water runoff"; and

7. The Report noted the presence of mold in the basement of the Property; and

8. On October 9, 2014, Horch forwarded the entire e-mail from the mold inspector to Frank Fahr, and enclosed two pages of the Report; and

9. The portion of the Report forwarded by Horch concerned the first floor of the Property only; and

10. Upon a subsequent request from Frank Fahr, Horch forwarded the entire report to Mr. Fahr on October 20, 2014; and

11. Both the Buyer and his agent, Frank Fahr spoke with the mold inspector about his findings on November 4, 2014; and

12. On November 11, 2014, the Buyer and Sellers entered into an Amendment to the Agreement of Sale which addressed any concerns the Buyers had arising out of the Report; and

13. The Sellers promptly made the repairs referenced in the Amendment to the Agreement of Sale; and

14. Closing occurred on November 21, 2014.

And it is further

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

1. Respondent Horch acted in violation of N.J.A.C. 11:5-6.4(c), in that by forwarding only two pages of the Report in her e-mail to Frank Fahr on October 9, 2014, Respondent Horch failed to disclose all information material to the physical condition of the Property, which was known to her, to the Buyer; and

Based on the above, it is hereby:

ORDERED AND AGREED that Horch shall pay a fine in the amount of two thousand, five hundred dollars (\$2,500). The fine shall be paid in full within thirty (30) days of the full execution of this Consent Order. The fine shall be payable by certified check, cashier's check or money order 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 this Consent Order encompasses only the information in Commission investigation file # 10002658. The Commission reserves the right to take further administrative action if it obtains any other information that Horch 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.

Dated: November 28, 2017



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

**RESPONDENT CERTIFICATION**

I, Kathryn Horch, hereby certify that:

1. I am not under any disability, mental or physical, nor under the influence of any medication, intoxicants or other substances that would impair my ability to knowingly and voluntarily execute this Consent Order; and
2. I have received the advice of legal counsel on this matter and on the terms of the Consent Order, that I am entering into this agreement knowingly and voluntarily, that I have not been subject to any coercion or threats regarding her execution of this Consent Order and that other than the other terms set forth above, no promises, representations or inducements have been made to me to secure my acceptance of the provisions of this Consent Order.

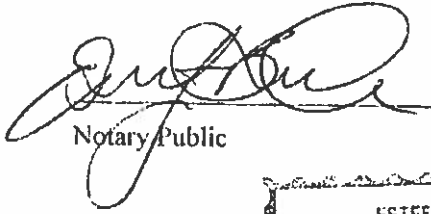
Consented to as to  
Form, Content and Entry

Respondent Kathryn Horch

Dated: November 27, 2017

  
\_\_\_\_\_  
Kathryn Horch

Subscribed and sworn to before me on this 27<sup>th</sup> day of November, 2017

  
Notary Public

ESTEFANIE BOCKELER  
Notary Public  
State of New Jersey  
My Commission Expires Dec 11, 2019