

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER HUD-17-022
)	(REC Ref. No.'s 10004439 and 10002827)
Complainant,)	
)	ORDER TO SHOW CAUSE
v.)	
)	
ERIK BRACHMAN, licensed New Jersey)	
real estate broker-salesperson (Ref. No. 8241233))	
)	
Respondent.)	

THIS MATTER being commenced by the New Jersey Real Estate 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 Erik Brachman (“Brachman”) is a licensed New Jersey real estate broker-salesperson, who was first licensed as a salesperson in 2002. Brachman’s license is currently in “Inactive” status. At all relevant times herein, Brachman was licensed as broker of record of Harrison Acquisitions and Development LLC, whose office was located at 601 Harrison Avenue, Harrison, New Jersey 07029; and

2. On or about February 24, 2016, Brachman entered into a contract to sell the property located at 201 Dey Street, Harrison, New Jersey 07029 (the “Property”), which was owned by Brachman. Paragraphs 32 and 33 of the contract of sale, titled “DECLARATION OF LICENSEE BUSINESS RELATIONSHIP(S)” and “BROKERS’ INFORMATION AND COMMISSION” respectively, were crossed out. Under paragraph 42 of the contract of sale, titled “ADDITIONAL CONTRACTUAL PROVISIONS” a handwritten note was included, which states: “Seller will pay a set commission to Michael Rusek at the time of closing”; and

3. Michael Rusek is a licensed New Jersey real estate salesperson, who was licensed with S21 Inc. d/b/a Century 21 Scmio & Associates at all relevant times herein. Michael Rusek was never licensed with Harrison Acquisitions and Development LLC; and

4. Brachman instructed Michael Rusek not to disclose any information regarding the sale of the Property to Century 21 Scmio & Associates; and

5. The Property closed on or about May 5, 2016. Prior to the closing date, no documentation or information regarding the sale of the Property was submitted to Century 21 Scmio & Associates; and

6. Brachman stated to a New Jersey Real Estate Commission Investigator that on or about May 5, 2016, Brachman closed Harrison Acquisitions and Development LLC; and

7. Brachman stated to a New Jersey Real Estate Commission Investigator that no real estate brokerage activity was ever conducted in the office, and that the office was used as more of a social club than a business enterprise; and

8. Brachman failed to submit an Office Closing Affidavit within 30 days of the office closure, as required by N.J.A.C. 11:5-3.9(c); and

9. After being contacted by a New Jersey Real Estate Commission Investigator, Brachman submitted an office closing affidavit on July 26, 2017; and

10. Respondent Erik Brachman's conduct surrounding the sale of the Property is in violation of N.J.S.A. 45:15-17(e), in that Respondent Brachman's conduct, in orchestrating the above transaction to be conducted outside the auspices of a licensed New Jersey real estate broker, demonstrates unworthiness, bad faith and dishonesty; and

11. Respondent Erik Brachman's conduct is in violation of N.J.A.C. 11:5-3.9(c) in that he failed to submit an Office Closing Affidavit within 30 days of closing his real estate brokerage office; and

And for good cause shown,

IT IS on this 31st day of October, 2017

ORDERED that Respondent Erik Brachman 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. 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

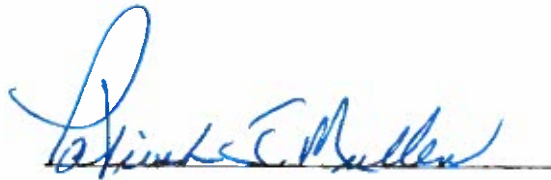
IT IS FURTHER ORDERED that failure to comply with all of the requirements of N.J.A.C. 11:5-11.2 may result in a determination that there are no material facts or issues of law in dispute and any presentation made to the Commission will be limited to the issue of the severity of any sanction or penalty 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 28th day of November, 2017 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.



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