

**NEW JERSEY REAL ESTATE COMMISSION**

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER REC-E-21-001
	)	
Complainant	)	ORDER TO SHOW CAUSE
	)	(REC Ref. No.10010302)
vs.	)	
	)	
YANIRA GUZMAN, licensed New Jersey	)	
real estate broker, (0121456) and broker of	)	
record of GG POWERHOUSE REALTY, LLC,	)	
licensed New Jersey real estate broker, (1972712)	)	
	)	
Respondents.	)	

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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, and N.J.A.C. 11:5-1.1 to 11:5-12.18 and it appearing that:

1. Respondent, Yanira Guzman, (“Guzman”) is a licensed New Jersey real estate broker and is the broker of record for GG Powerhouse Realty, LLC, a licensed New Jersey real estate broker, whose main office is located at 102 Belmont Avenue, Garfield, N.J. 07026. Guzman was first licensed in New Jersey in 2001; and

2. Guzman is the owner of GG Powerhouse Realty which first became licensed as a real estate brokerage firm in New Jersey on August 27, 2019. She was previously licensed as a broker-salesperson with Fathom Realty, LLC from December 2, 2018 to July 18, 2019. Before her association with Fathom Realty, Guzman was the owner and the broker of record for iRealty Group, LLC which was licensed as a New Jersey real estate broker from October 5, 2017 to October 28, 2018; and

3. On or about October 28, 2018, Guzman filed an Office Closing Affidavit with the Commission attesting to the fact that iRealty Group had ceased operations as a real estate broker; and

4. In December 2019, a complaint was filed with the Commission by Mixharet Limani who stated that her house was in foreclosure and that her father was going to buy the house as a short sale through Guzman and Fathom Realty. The complaint alleged that on or about April 29, 2019 while Guzman was licensed with Fathom Realty, she prepared a contract of sale for the purchase of property located at 1824 Lincoln Avenue, Pompton Lakes, N.J. in which she represented herself as a disclosed dual agent on behalf of iRealty Group. The buyer was Dzevdet Limani and the seller was listed as Ejup Alosovic. Guzman was not licensed with iRealty Group on April 29, 2019 when she represented herself to be an agent of iRealty Group and purported to represent both the buyer and the seller. Both the buyer and seller were clients of Fathom Realty, but the contract of sale that Guzman prepared made no mention of Fathom Realty. The contract of sale provided that a commission would be paid to iRealty Group; and

5. Guzman instructed the buyer to pay a \$20,000 deposit to show that he was a serious buyer. The Buyer paid the \$20,000 by cashier's check drawn on Capital One Bank payable to iRealty Group. Guzman endorsed the back of the check and by virtue of the stamp on the back of the check, it appears to have been negotiated at Brunswick Bank and Trust. It was not deposited into the escrow account of Fathom Realty with whom Guzman was licensed at the time; and

6. Despite Guzman's repeated representations to the buyer that the transaction was proceeding smoothly, the sale did not go through. In December 2019, the buyer became aware that the property had been sold at Sheriff sale and requested that Guzman return the \$20,000 deposit. Guzman failed to do so, and the buyer filed a complaint with the Commission as well as

a criminal complaint with the Pequannock New Jersey Police Department. In February 2020, after those complaints were filed, Guzman returned the \$20,000 by a bank check drawn on an account of GG Powerhouse Realty at TD Bank. The criminal complaint was dismissed; and

7. Guzman failed to produce documents as requested by a Commission investigator on several occasions and failed to comply with a subpoena that was issued and personally served upon her on March 4, 2020; and

8. In February 2020, the investigator visited the office address on file with the Commission. The location was empty and there was no signage indicating that it was maintained as a real estate office. Therefore, the investigator was not able to determine the state of the business records maintained by Guzman as broker of record of either iRealty Group or of GG Powerhouse. As of the date of this Order to Show Cause, Guzman's license and the license of GG Powerhouse still show as active on the Commission's licensing system despite having no office open to the public. It should also be noted that this was the case in February 2020 before the COVID-19 pandemic restrictions were put into place; and

9. The investigation revealed that the broker of Fathom Realty, Lois DiCaro had no knowledge of Guzman's actions until the buyers filed a complaint with the Real Estate Commission; and

#### VIOLATIONS

10. N.J.S.A. 45:15-1 requires that any person performing real estate activities in New Jersey for compensation must hold a real estate license. N.J.S.A. 45:15-3 lists the activities which constitute the practice of real estate in New Jersey. Anyone who lists for sale, sells or attempts to negotiate a sale or purchase of real estate must hold a real estate license and a salesperson

performing those activities can only act under the supervision and authority of his or her employing broker. When Guzman prepared a contract of sale for the Pompton Lakes property as a representative of iRealty Group, which was not a licensed real estate broker at the time and while she was licensed with Fathom Realty as a broker-salesperson, she engaged in unlicensed real estate activity, in violation of N.J.S.A. 45:15-1 and 45:15-3; and

11. Guzman is in violation of N.J.S.A. 45:15-17(o) in that she failed to deposit the funds of others coming into her possession as an escrow agent in a real estate transaction into an escrow account and failed to turn over those funds to her employing broker for deposit into an escrow account; and

12. Guzman is in violation of N.J.S.A. 45:15-17(d) in that she failed to account for or pay over monies belonging to others coming into her possession as a licensee; and

13. N.J.S.A. 45:15-17(e) provides that the failure of any person to cooperate with the Commission in performance of its duties or to comply with a subpoena issued by the Commission or failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness. Guzman is in violation of N.J.S.A. 45:15-17(e), unworthiness, in that she failed to comply with a duly issued subpoena issued by the Commission and failed to provide documents which were requested to be produced; and

14. Guzman is in violation of N.J.S.A. 45:15-12, by failing to maintain an office open to the public; and

15. Guzman is in violation of N.J.S.A.45:15-17(m) in that she attempted to collect a commission or valuable consideration for performing real estate brokerage activity from someone other than her employing broker; and

16. Guzman is in violation of N.J.S.A. 45:15-17(c) in that she engaged in a continued course of misrepresentations to the buyer in the Pompton Lakes transaction when she assured him that the transaction was proceeding even after the property had been sold to another buyer; and

17. Guzman's actions in collecting a deposit in a real estate transaction and converting it to her own use as described above demonstrate bad faith and dishonesty in violation of N.J.S.A. 45:15-17(e);

### COUNT TWO

18. In February 2020, a Commission investigator visited the office address of GG Powerhouse Realty that was on file with the Commission. The location was empty and there was no signage indicating that it was maintained as a real estate office. The corporate broker license of GG Powerhouse Realty is active as of the date of this Order to Show Cause; and

### VIOLATION

19. N.J.S.A. 45:15-12 requires that all broker licensees maintain an office open to the public. GG Powerhouse Realty does not maintain an office open to the public and is in violation of N.J.S.A. 45:15-12.

And for good cause shown,

IT IS ON THIS 15<sup>th</sup> DAY OF March, 2021

ORDERED that Respondent, Yanira Guzman, shall show cause why her real estate broker's license and the corporate broker license of GG Powerhouse Realty, LLC 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, Guzman, 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 the Order to Show Cause, state the factual basis of each and every factual allegation denied and assert any defenses that Respondent intends to present if this matter is deemed a contested case and a plenary hearing is held; and

IT IS FURTHER ORDERED that failure to comply with all 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 New Jersey Real Estate Commission will review this Order to Show Cause and Answer filed, if any, at a meeting scheduled on or after the 11<sup>th</sup> day of MAY, 2021 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 hereof to her last known business addresses via certified mail.



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Marlene Caride  
Commissioner  
New Jersey Department of Banking and Insurance

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