

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION,	)	DOCKET NUMBER CO-14-020
	)	REC Ref. No. 13-28495
	)	
Complainant,	)	CONSENT ORDER
	)	
v.	)	
	)	
DAVID LLUBERES, licensed New Jersey	)	
real estate salesperson (Ref. No. 1003692),	)	
	)	
	)	
Respondent.	)	

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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 David Lluberes (“Lluberes”), licensed as a salesperson, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Lluberes is a licensed real estate salesperson. He is currently licensed with Gimme Shelter Enterprises, LLC d/b/a Keller Williams Realty Premier Properties of Westfield, licensed real estate broker, whose office is located at 188 Elm Street, Westfield, New Jersey; and

WHEREAS Lluberes is subject to the provisions of the Real Estate Licensing Law, N.J.S.A. 45:15-1 et seq.; and

WHEREAS or about October 1, 2012, James Hainis submitted an offer to purchase the property at 1 Blackthorne Road, Warren, New Jersey. A contract of sale was signed by the seller on October 5, 2012; and

WHEREAS the contract of sale indicated that a \$1,000 deposit was to be paid by buyer upon the signing of the contract to be held in the escrow account of Keller Williams Realty Premier Properties; and

WHEREAS Lluberes acted as the buyer’s agent in the above transaction; and

WHEREAS the buyer’s check #121 dated October 8, 2012 in the amount of \$1,000 deposit was

never received nor deposited into the escrow account of Keller Williams Realty Premier Properties.  
Lluberes only collected an email copy of the check; and

WHEREAS Lluberes did not notify the other parties to the transaction that the deposit in the transaction had not been collected within 5 days; and

WHEREAS on or about January 28, 2013, the contract was terminated; and

WHEREAS Lluberes is in violation of N.J.A.C. 11:5-5.1(e) in that he failed to collect and deposit the funds in the transaction within five business days; and

WHEREAS by his actions as set forth above, Respondent Lluberes violated N.J.A.C. 11:5-6.4(a) and N.J.S.A. 45:15-17(t) by failing to deal fairly with all parties to the above transaction; and

WHEREAS the New Jersey Real Estate Commission and Lluberes desire and have agreed to settle this matter in lieu of a full and formal hearing; and

WHEREAS Lluberes acknowledges that he is aware of his right to a full and formal hearing on any violations which the Commission may allege he has committed and the right to obtain the advice of counsel on the matters to which this Consent Order pertains, he is knowingly and voluntarily waiving the right to a hearing and the right to an attorney; and

WHEREAS the Commission and Lluberes, in order to avoid the costs and uncertainty of litigation and to resolve this matter with finality, hereby agree to the terms of 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 February 24, 2015 and

IT APPEARING that the matter against Lluberes 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 24<sup>th</sup> day of February, 2015

ORDERED AND AGREED that Lluberes is in violation of N.J.A.C. 11:5-5.1(e) in that he failed to collect and deposit the funds in the transaction within five business days; and it is further

ORDERED AND AGREED that by his actions as set forth above, Respondent Lluberes violated N.J.A.C. 11:5-6.4(a) and N.J.S.A. 45:15-17(t) by failing to deal fairly with all parties to the above transaction; and it is further

ORDERED AND AGREED that Lluberes admits and accepts responsibility for the above violations; and it is further

ORDERED AND AGREED that Lluberes shall be required to completed a three hour course in agency within six months of the approval of this consent order. Such course shall be in addition to any required continuing education under N.J.A.C. 11:5-12.3; and it is further

ORDERED AND AGREED that Lluberes shall pay a fine in the amount of \$750 within 30 days of the approval of this consent order; and it is further

ORDERED AND AGREED that 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

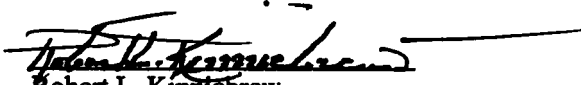
ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file #13-28361, related to Respondent Lluberes. The Commission reserves the right to take further administrative action if it obtains any other information that Lluberes may have violated the Real Estate Brokers and Salesperson 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 by signing below, Lluberes confirms that:

- a. he is not under any disability, mental or physical, nor under the influence of any medication, intoxicants or other substances that would impair his ability to knowingly and voluntarily execute this Consent Order; and


b. he is entering into this agreement knowingly and voluntarily, that he has not been subject to any coercion or threats regarding his 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; 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.

  
Robert L. Kimblebrew  
Executive Director  
New Jersey Real Estate Commission

Consented to as to  
Form, Content and Entry

Dated: 12/1/14

  
David Llubes