

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER HUN-15-011
)	
Complainant)	CONSENT ORDER AS TO
)	KIM COOK
)	
)	(REC Ref. No. 10001316)
)	
vs.)	
)	
KIM COOK, licensed New Jersey real estate)	
salesperson, (SP8835498) and)	
NORMAN J. GOLDBERG, licensed New Jersey)	
real estate broker, (RB7814232))	
)	
Respondents.)	

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 Kim Cook may have violated various provisions of the real estate licensing law of the State of New Jersey; and

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

WHEREAS, the staff of the New Jersey Real Estate Commission (“Commission staff”) has alleged that Kim Cook may have violated various provisions of the real estate laws of the State of New Jersey; and

WHEREAS Kim Cook acknowledges that she is aware of her right to a hearing on any violations which the Commission may allege she has committed and of her right to obtain the advice of counsel on the matters to which this Consent Order pertains, she is knowingly and voluntarily waiving those rights; and

WHEREAS the Commission and Kim Cook, in order to avoid the costs and uncertainty of further litigation and to resolve this 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 June 23, 2015; and

IT APPEARING that the matter against Respondent 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 29th day of June, 2015

ORDERED AND AGREED that Kim Cook admits the following facts:

1. Kim Cook is a licensed New Jersey real estate salesperson currently licensed with Herbert E. Goldberg Company, d/b/a ReMax Town and Country, licensed New Jersey real estate broker located at 44 Leigh Street, Clinton, N.J. 08809. Respondent Cook was first licensed on November 17, 1988; and

2. On or about September 11, 2013, as agent for buyers Mr. and Mrs. Donald Colaluca, Respondent Cook prepared and presented an offer to purchase the property located at 515 Goldfinch Terrace, Lopatcong Township, N.J. for \$171,000. The seller was the Estate of Eugene Byrne. The property was listed for sale by Century 21 North Warren; and

3. The offer was presented on a New Jersey Association of Realtors® form contract of sale which stated in paragraph 3 that a deposit of \$1,000 had been paid and was to be kept on deposit by the participating broker (Respondent's employer, ReMax Town and Country.) There was an entry on the contract for an additional deposit to be paid which was crossed out and was not initialed; and

4. The buyers' check #095 dated September 11, 2013 in the amount of \$1,000 was made payable to ReMax Town and Country and was given to Respondent Cook. That check was never deposited into an escrow account or any other account of ReMax Town and Country. Respondent Cook voided the deposit check and shredded it. Respondent Cook stated to a Real Estate Commission investigator that prior to shredding the check she sent a photocopy of it to the title company, Real Estate Escrow Company located in Asbury, N.J. which was to act as the closing agent in the transaction. Respondent Cook further stated that she notified the title company that it was responsible for collecting the deposit from the buyers; and

5. Shortly after she shredded the buyers' deposit check, Respondent Cook left for a ten day vacation and never notified the listing agent or the seller's attorney of her actions regarding the deposit check. Upon her return from vacation, Respondent Cook failed to follow up on the collection of any deposit money; and

6. The contract of sale was cancelled when the buyer could not obtain a mortgage commitment. When the seller's attorney inquired about the whereabouts of the deposit money after the contract was cancelled, he then was made aware that there were no funds on deposit; and

IT IS FURTHER ORDERED AND AGREED that based on the above facts, Respondent Kim Cook admits to the following:

1. Respondent Cook's conduct in shredding the buyers' check for the deposit money and in failing to disclose same to the seller or to the seller's agent constitutes a violation of N.J.A.C. 11:5-6.4(a) in that she failed to deal fairly with the seller; and

2. Respondent Cook is in violation of N.J.S.A. 45:15-17(a) in that she made a negligent misrepresentation when she indicated in the contract of sale that \$1,000 was on deposit at the office of ReMax Town and Country; and

Based on the above, it is hereby:

ORDERED AND AGREED that Kim Cook shall pay a total fine in the amount of \$1,000.00; and it is further

ORDERED AND AGREED that the fine shall be paid within 30 days of the date 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 #10001316 as set forth above. The Commission reserves the right to take further administrative action if it obtains any other information that Kim Cook may have violated the Real Estate Brokers and Salesmen 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 balance of the allegations in the Order to Show Cause filed in this matter are hereby administratively dismissed; and it is further

ORDERED AND AGREED that by signing below, Kim Cook confirms that:

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

b. she is entering into this agreement knowingly and voluntarily, that she has 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 her to secure her 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.

Dated: 6/29/15

Patricia C Coppel
Patricia C. Coppel
Deputy Executive Director
New Jersey Real Estate Commission

Consented to as to Form, Content
and Entry

Dated: 5/20/15

Kim Cook
Kim Cook