

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER CO-14-011
	)	REC Ref. No. 1001189
Complainant	)	
	)	CONSENT ORDER
v.	)	
	)	
RAKESH C. SHAH, licensed New Jersey	)	
real estate salesperson (Ref. No. 0121969),	)	
	)	
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 Rakesh C. Shah ("Shah"), licensed as a real estate salesperson, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Rakesh C. Shah is a licensed New Jersey real estate salesperson and is currently licensed with Kessler Schanen, Inc. d/b/a Century 21 Charles Smith Agency, Inc., whose office is located at 150 Morgan Avenue, South Amboy, New Jersey; and

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

WHEREAS on or about February 7, 2011, Shah pled guilty to a one count information charging him with Use of facility in interstate commerce in aid of commercial bribery, in violation of 18 U.S.C. §1952(a)(3) and 18 U.S.C. §2; and

WHEREAS in February and March 2011, Shah was actively licensed and did not notify the Commission of the charge; and

WHEREAS on or about June 24, 2011, Shah renewed his license with Charles Smith Referral Associates LLC, licensed broker, whose office is located at 150 Morgan Avenue, South Amboy, New Jersey. Question #2 on the 2011-2013 renewal application asked, "Since July 1, 2009, have you been charged with, indicted, convicted or sentenced for any disorderly persons offense, crime, or misdemeanor

(other than motor vehicle violations) in this state or any other jurisdiction, or are you presently enrolled in New Jersey's pre-trial intervention program or a similar program of another state or the federal government?"; and

WHEREAS Shah answered in the negative to question #2 on the 2011-2013 renewal application; and

WHEREAS on or about December 13, 2011, Shah was convicted and sentenced to five months imprisonment, followed by three years of probation. He was ordered to pay \$20,000 in restitution; and

WHEREAS in December, 2011 and January, 2012, Shah was actively licensed and did not notify the Commission of the conviction; and

WHEREAS the underlying conduct related to solicitation of a payment from a painting contractor to obtain an award in connection with the construction of a data center; and

WHEREAS Shah explained that his failure to disclose the criminal matter was due to him not having knowledge of the requirement to do so and due to the stress of the legal formalities; and

WHEREAS on or about May 29, 2013, Shah completed the online questionnaire to renew his real estate salesperson license for the 2013-2015 license term with Century 21 Charles Smith Agency, Inc., licensed real estate broker. He answered in the affirmative to qualifying question #1 which states, "Since your last New Jersey real estate license was issued or renewed, have you been arrested (other than for motor vehicle violations), indicted, charged with a violation of a crime, misdemeanor, or disorderly persons offense, or convicted of a crime, misdemeanor or disorderly persons offense in this state, any other state or by the federal government" and question #2A which states, "Since your last New Jersey real estate license was issued or renewed, have you enrolled in New Jersey's pre-trial intervention program or a similar program involving the deferral of the disposition or sentencing in a criminal matter in another state or the federal government;" and

WHEREAS pursuant to N.J.S.A. 45:15-19.1, the Commission is empowered to revoke Shah's New Jersey real estate license due to his conviction on a theft related offense; and

WHEREAS Shah violated N.J.S.A. 45:15-17(e) in that the conduct underlying his conviction demonstrates unworthiness, incompetency, bad faith and dishonesty; and

WHEREAS Shah violated N.J.S.A. 45:15-17(e) (three counts) in that his failure to notify the Commission of being charged, his failure to notify the Commission of his conviction, and the failure to notify the Commission of the guilty plea in the 2011-2013 renewal application demonstrates incompetency; and

WHEREAS Respondent Shah violated N.J.S.A. 45:15-17(s) (two counts) in that he failed to notify the Commission within 30 days of the filing of the Information and failed to notify the Commission within 30 days of the conviction; and

WHEREAS Shah 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 having notice that he has 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 Shah, 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 September 10, 2014; and

IT APPEARING that the matter against Shah 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 11<sup>th</sup> day of September, 2014

ORDERED AND AGREED THAT pursuant to N.J.S.A. 45:15-19.1, the Commission is empowered to revoke Shah's New Jersey real estate license due to his conviction on a theft related offense; and it is further

ORDERED AND AGREED that Shah violated N.J.S.A. 45:15-17(e) in that the conduct underlying his conviction demonstrates unworthiness, incompetency, bad faith and dishonesty; and it is further

ORDERED AND AGREED that Shah violated N.J.S.A. 45:15-17(e) (three counts) in that his failure to notify the Commission of being charged, his failure to notify the Commission of his conviction, and the failure to notify the Commission of the guilty plea in the 2011-2013 renewal application demonstrates incompetency; and it is further

ORDERED AND AGREED that Shah violated N.J.S.A. 45:15-17(s) (two counts) in that he failed to notify the Commission within 30 days of the filing of the Information and failed to notify the Commission within 30 days of the conviction; and it is further

ORDERED AND AGREED that Shah admits and accepts responsibility for these violations; and it is further

ORDERED AND AGREED that Shah's real estate license shall be revoked until December 13, 2016 and he shall be ineligible for any real estate license until that date. Should Shah make application for a license to be issued after his term of revocation, he must demonstrate sufficient rehabilitation; and it is further

ORDERED AND AGREED that Shah shall pay a fine in the amount of \$1,500.00, in accordance with a payment plan to be set by the Division of Anti-Fraud Compliance/Collection Section of the Department of Banking and Insurance. All fines must be paid in full prior to the re-issuance of a real estate license; 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 #1001189. The Commission reserves the right to take further administrative action if it obtains any other information that Shah 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, Shah 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. Kirniebrew  
Executive Director  
New Jersey Real Estate Commission

Consented to as to  
Form, Content and Entry

Dated: 8/4/14

  
Rakesh C. Shah