

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER CO-14-020
)	
Complainant)	CONSENT ORDER AS TO
)	JEANNEMARIE PHELAN
)	(REC Ref. No. 10001370)
vs.)	
)	
JEANNEMARIE PHELAN, licensed New Jersey real estate)	
salesperson (SP0340777),)	
)	
Respondent.)	

THIS MATTER having been opened by the New Jersey Real Estate Commission ("REC") in the Department of Banking and Insurance, State of New Jersey, upon information Jeannemarie Phelan ("Phelan"), licensed New Jersey salesperson may have violated various provisions of the real estate laws of the State of New Jersey; and

WHEREAS, Phelan is a licensed New Jersey real estate salesperson employed with Panther Real Estate Services, LLC, d/b/a ReMax Success, licensed New Jersey real estate broker located at 620 Newark-Pompton Turnpike, Pompton Plains, N.J. 07444. At all times relevant hereto, Phelan was employed with Coldwell Banker Real Estate Services, licensed New Jersey real estate broker; and

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

WHEREAS, the Real Estate Commission has secured evidence which indicates that Phelan may have violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate brokers and salespersons as more specifically set forth in file #1000137; and

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

WHEREAS, Phelan acknowledges that she has been advised that she has a right to a hearing on any violation which the Commission may allege she has committed and having obtained the advice of legal counsel on the matter to which this Consent Order pertains, she has waived the right to a hearing; and

WHEREAS, the REC and Phelan, 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 October 21, 2014; and

IT APPEARING that the matter against Phelan should be resolved upon the consent of the parties, without resort to a formal hearing, and further good cause appearing;

NOW THEREFORE, on this 21st day of October, 2014 it is

ORDERED AND AGREED that Phelan admits to the following:

1. Richard and Sandra Weiner were the owners of property located at 66 Maple Avenue, Wayne, N.J. The property was listed for sale by Robert J. Lindsay, licensed New Jersey broker-salesperson and Coldwell Banker on or about December 5, 2011; and
2. The property was equipped with a Supra® lockbox which allowed real estate licensees to access the property and which created an electronic log of such access; and
3. The owners authorized Lindsay to make one copy of their house key to place in the Supra® lockbox. Unbeknownst to the owners, Lindsay made two copies of the key; and

4. At all relevant times hereto, Phelan and Lindsay were involved in a personal relationship; and

5. On approximately eleven occasions between December, 2011 and January, 2012, Lindsay accessed the property using the spare key that he had made. The entries were made for his personal use which was unrelated to the sale or marketing of the property and was unknown and unauthorized by the owners. Those entries were not recorded by the lockbox; and

6. On those approximately eleven occasions, Phelan also was present at the property with Lindsay and used same for her own personal use which was unrelated to the sale or marketing of the property and was unknown and unauthorized by the owners; and

NOW THEREFORE, it is

ORDERED AND AGREED that Phelan admits and accepts responsibility for the following violations:

7. Respondent Phelan is in violation of N.J.A.C. 11:5-6.4(a) and N.J.S.A. 45:15-17(t) in that as an agent affiliated with Coldwell Banker, listing broker for the property located at 66 Maple Avenue, Wayne, N.J., she was required to protect and promote the interests of the owners of that property; and

8. Respondent Phelan is in violation of N.J.S.A. 45:15-17(e) in that the above described conduct constitutes unworthiness; and it is further

ORDERED AND AGREED that Phelan's license as a real estate salesperson shall be suspended for a period of six (6) months, to commence on October 24, 2014; and it is further

ORDERED AND AGREED that Phelan shall complete the 30 hour course on agency and ethics which is a part of the broker pre-licensure education course prior to any

real estate license being issued to her and shall supply proof of same to the Commission staff. No license shall be issued or reinstated until this requirement has been fulfilled; and it is further

ORDERED AND AGREED that Phelan will pay a total fine in the amount of \$5,000 payable in installments in the amount of \$100 per week for 25 weeks during the period of suspension with the balance due the 26th week. The entire fine must be paid in full before any license is reinstated upon completion of the period of suspension. 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 pertains to all administrative actions and violations that were alleged or could have been alleged against Phelan arising from the Commission's investigation file #10001370; and it is further

ORDERED AND AGREED that by signing below, Phelan 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 he has not been subject to any coercion or threats regarding his execution of this Consent Order and that other than the terms set forth above, no promises, representations or inducements have

been made to her to secure his acceptance of the provisions of this Consent Order; and it is further

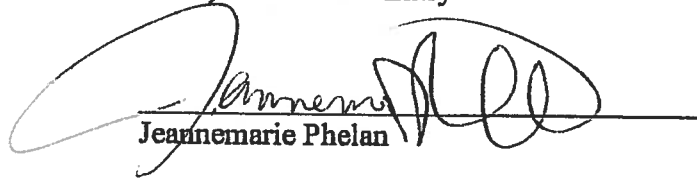
ORDERED AND AGREED that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein.


Dated: 10/21, 2014



Robert L. Kinniebrew
Executive Director
New Jersey Real Estate Commission

Consented to as to
Form, Content and Entry


Dated: 10/21, 2014


Jeannemarie Phelan


Dated: 10/21, 2014


Kalman H. Geist, Esq.
Attorney for Respondent