

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER CAM-18-012
	)	(REC Ref. No. 10005957)
Complainant,	)	
	)	CONSENT ORDER
v.	)	
	)	
MARY A. TYLER, licensed New Jersey real estate	)	
broker (Ref. No. 7934980) and	)	
WILLIAM A. PRICOLI, licensed New Jersey	)	
real estate salesperson (Ref. No. 8134930) and	)	
FAZZIO PREFERRED PROPERTIES, LLC,	)	
licensed New Jersey real estate broker	)	
(Ref. No. 1538187)	)	
Respondents.	)	

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THIS MATTER having been opened to the New Jersey Real Estate Commission (the “Commission”) in the Department of Banking and Insurance, State of New Jersey, upon information that Mary A. Tyler, William A. Pricoli and Fazzio Preferred Properties, LLC (collectively, the “Respondents”), New Jersey real estate licensees, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS the Respondents are subject to the provisions of the New Jersey Real Estate Licensing Law, N.J.S.A. 45:15-1 et seq. and corresponding regulations; and

WHEREAS Commission staff has alleged that the Respondents have violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS the Respondents acknowledge that they are aware of their right to a plenary hearing on any violations which the Commission may allege they have committed and having had the advice of counsel on matters to which this Consent Order pertains, they are knowingly and voluntarily waiving the right to a hearing; and

WHEREAS the Commission and the Respondents, in order to avoid the costs and uncertainty of further litigation and to resolve the 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 Tuesday, March 12, 2019; and

IT APPEARING that the matter against the Respondents 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 14<sup>th</sup> day of March, 2019

ORDERED AND AGREED that the Respondents admits the following facts:

1. Respondent Mary A. Tyler (“Tyler”) is an actively licensed New Jersey real estate broker, who was first licensed as a salesperson in New Jersey in 1979, and is currently licensed as broker of record of Fazzio Preferred Properties, LLC (“Fazzio Properties”), licensed New Jersey real estate broker, whose primary office is located at 401 South Kings Highway, Cherry Hill, New Jersey; and

2. Respondent William A. Pricoli (“Pricoli”) is an actively licensed New Jersey real estate salesperson, who was first licensed in 1981, and is currently licensed with Fazzio Properties; and

3. On or about April 16, 2015, Tyler submitted an “Application for Corporation Partnership, LLC and Real Estate Broker License” on behalf of Fazzio Properties. The application indicated that Tyler would act as broker of record of the firm. The application documentation indicated that Tyler and Pricoli were president and vice president of Fazzio Properties respectively and that each owned 50% of the business. The application documentation further provided that Tyler was the responsible officer/manager of the business for all brokerage activities conducted by the business as well as being authorized as the signatory for the firm’s escrow account; and

4. The above application was approved by the Commission and Fazzio Properties became licensed as a New Jersey real estate broker on April 22, 2015; and

5. On or about June 19, 2017, an unannounced office inspection was conducted by Commission investigators. It was discovered that Fazzio Properties is located within the office space of the law firm Catalano Law, where Pricoli is employed full time as the business manager. Specifically, the

brokerage is located in a separate office to that which Pricoli uses to perform his duties as business manager of the law firm. During the inspection, the assigned Commission investigators requested to review Fazzio Properties' books and records, however the only records that were available for on-site inspection were the escrow and operating account bank statements for the prior three months; and

6. During the above-mentioned office inspection, interviews were conducted with both Tyler and Pricoli. During the interview, the following information was ascertained:

a. Tyler was approached by Pricoli in April of 2015 and asked to be the broker of record for Fazzio Properties. Tyler stated to the Commission investigators that she does not know what to do as a broker of record and does not know what records are required to be retained. Tyler further stated that Pricoli is primarily responsible for the maintenance of financial and other records for the agency, however Tyler does review agency escrow and operating accounts as well as all transactions completed by Fazzio Properties; and

b. Pricoli is the full-time business manager of Catalano Law and an owner of Fazzio Properties. He is responsible for the preparation of the agency financial records, but he admitted that he does not maintain general ledgers or separate transaction ledgers for the brokerage's escrow account. Pricoli does not perform reconciliations of the escrow account. Pricoli further stated that he has an employment agreement with Tyler to conduct real estate sales activity for Fazzio Properties, however he admitted that same was never reduced to writing; and

7. On or about July 11, 2017, subpoenas to appear at Commission Headquarters and produce documents were issued by the Commission against both Tyler and Pricoli; and

8. On July 27, 2017, Tyler and Pricoli appeared at the New Jersey Real Estate Commission Headquarters and were interviewed by a Commission investigator in accordance with the terms of the above subpoena. During the interview, the following information was ascertained:

a. Escrow account general ledger, bank ledger and reconciliations for the period of April, 2015 through June, 2017 were prepared by an independent CPA prior to the meeting.

General ledgers, bank statements and reconciliations were not maintained by Fazio Properties, nor were separate records maintained by either Tyler or Pricoli prior to July 25, 2017; and

b. A draft of a written independent contractor agreement was provided, which Tyler stated would be used for Fazio Properties going forward; and

c. Pricoli stated that records of the escrow account had not been previously maintained because of low account activity; and

9. The Respondents represent that all deficiencies have been remedied and that the Fazio Properties office is now in compliance with the Commission's rules and regulations; and it is further

ORDERED AND AGREED that based on the above facts, the Respondents admit to the following:

1. Respondent Mary A. Tyler's conduct is in violation of N.J.A.C. 11:5-5.4(b)(2), (3) and (4), in that Tyler failed to ensure that:

a. A general ledger or separate transaction ledgers for the Fazio Properties trust account were maintained; and

b. Quarterly reconciliations of the Fazio Properties trust account were completed; and

c. All bank statements, cancelled checks and duplicate deposit slips for the Fazio Properties trust account were maintained in accordance with Commission regulations; and

2. Respondent Mary A. Tyler's conduct is in violation of N.J.A.C. 11:5-4.1 in that Tyler allowed Pricoli to commence real estate sales activity on behalf of Fazio Properties without executing a written agreement which recites the terms under which the services of Pricoli had been obtained; and

3. Respondent Mary A. Tyler's conduct is in violation of N.J.S.A. 45:15-17(e) incompetency, in that Tyler admitted to the assigned Commission investigator that she did not know what records were required to be maintained and that she did not fully understand her responsibilities as broker of record; and

4. Respondent William A. Pricoli's conduct is in violation of N.J.S.A. 45:15-17(e), incompetency, in that he assumed responsibility for preparing the financial books and records for Fazzio Properties and failed to:

- a. Maintain a general ledger or separate transaction ledgers for the Fazzio Properties trust account; and
- b. Complete quarterly reconciliations of the Fazzio Properties trust account; and
- c. Maintain all bank statements, cancelled checks and duplicate deposit slips for the Fazzio Properties trust account in accordance with Commission regulations; and

5. Respondent William A. Pricoli's conduct is in violation of N.J.A.C. 11:5-5.5(a), in that Pricoli failed to make all records of transactions, books of account, instruments, documents and forms utilized or maintained by Pricoli and by Fazzio Properties available for inspection by the Commission investigator assigned to investigate this matter at the time of the office inspection, as more fully described above; and

Based on the above, it is hereby:

ORDERED AND AGREED that Tyler shall pay a fine in the amount of one thousand, five hundred dollars (\$1,500). The fine shall be paid in full within one (1) year of the full execution of this Consent Order. A payment plan may be worked out with the Department of Banking and Insurance, Collection Section, whereby Tyler pays off the fine in monthly installments. The fine shall be payable by certified check, cashier's check or money order made 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 Pricoli shall pay a fine in the amount of one thousand, five hundred dollars (\$1,500). The fine shall be paid in full within one (1) year of the full execution of this Consent Order. A payment plan may be worked out with the Department of Banking and Insurance, Collection Section, whereby Pricoli pays off the fine in monthly installments. The fine shall be payable by certified check, cashier's check or money order made 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 Tyler shall complete 150 hours of broker pre-license education, which shall include a 90-hour general broker prelicensure course; a 30-hour course on broker's ethics and agency law and relationships; and a 30-hour course on broker office management. Proof of completion of the prescribed education shall be submitted to Commission staff within one year of the full execution of this Consent Order. Completion of the education prescribed herein shall not count towards the ordinary continuing education requirement for license renewal; and it is further

ORDERED AND AGREED that Pricoli shall complete 30 hours of broker pre-license education, which shall include a 30-hour course on broker office management. Proof of completion of the prescribed education shall be submitted to Commission staff within ninety (90) days of the full execution of this Consent Order. Completion of the education prescribed herein shall not count towards the ordinary continuing education requirement for license renewal; and it is further

ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10005957. The Commission reserves the right to take further administrative action if it obtains any other information that the Respondents may have violated the Real Estate Brokers and Salespersons 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 provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein; and it is further

ORDERED AND AGREED that by signing below, Tyler confirms that:

- a. She is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair her ability to knowingly and voluntarily execute this Consent Order; and
- b. She has received the advice of legal counsel on this matter and on the terms of the Consent Order, she is entering into this agreement knowingly and voluntarily, she has not been subject to any coercion or threats regarding the 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

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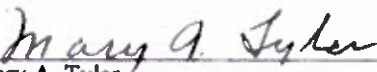
ORDERED AND AGREED that by signing below, Pricoli confirms that:

- a. He is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair his ability to knowingly and voluntarily execute this Consent Order; and
- b. He has received the advice of legal counsel on this matter and on the terms of the Consent Order, he is entering into this agreement knowingly and voluntarily, he has not been subject to any coercion or threats regarding the 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.

Dated: March 14, 2019

  
Richard Mumford  
Acting Director of Banking  
New Jersey Department of Banking and Insurance  
Real Estate Commission

Dated: 3-11, 2019

  
Mary A. Tyler  
Respondent

Dated: 3-11, 2019

  
William A. Pricoli  
Respondent

Dated: 3-11, 2019

  
Cheryl L. Cooper Esq.  
Attorney for Respondents