

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION)	DOCKET NUMBER MER-17-024
)	
Complainant)	CONSENT ORDER
)	
vs.)	
)	
MICHAEL H. KENYON, formerly licensed)	
New Jersey real estate referral agent,)	
(RA0339740),)	
)	
Respondent.)	

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 Michael H. Kenyon may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS, Michael H. Kenyon is a formerly licensed New Jersey real estate referral agent most recently licensed with New Jersey Referral Agents, LLC, licensed New Jersey real estate broker, located at 20 Plymouth Avenue, Middletown, N.J. 07758. Respondent’s license was returned to the New Jersey Real Estate Commission on or about January 6, 2018; and

WHEREAS Kenyon 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 has alleged that Kenyon may have violated various provisions of the real estate laws of the State of New Jersey, as more particularly set forth in the Order to Show Cause issued against him under Docket Number MER-17-024; and

WHEREAS Michael H. Kenyon acknowledges that he is aware of his right to a hearing on any violations which the Commission may allege he has committed and of his right to obtain the advice of counsel on the matters to which this Consent Order pertains, and he is knowingly and voluntarily waiving those rights; and

WHEREAS the Commission and Michael H. Kenyon, 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 Michael H. Kenyon has submitted financial records substantiating his fixed income and limited ability to pay fines; and

WHEREAS the terms of this Consent Order were approved by the Commission at a regular meeting on _____, 2018; and

IT APPEARING that the matter against Respondent Michael H. Kenyon 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 day of JUNE, 2018

ORDERED AND AGREED that Michael H. Kenyon admits the following facts:

1. At all times relevant hereto, Respondent was licensed as a broker-salesperson with Pinnacle Group MG, LLC, licensed New Jersey real estate broker d/b/a Pinnacle Realtors and Associates, located at 245 Nassau Street, Princeton, N.J. Respondent's employment with Pinnacle was terminated on or about August 5, 2016; and
2. On or about January 24, 2015, the property located at 14 Pennington Lawrenceville Road, Pennington, N.J. which was owned by Deanna Herrington and

Robert Gendusi, divorced persons, was listed for sale with Pinnacle Realtors and Associates. Respondent was the listing agent. The listing price was \$342,000. The property was a short sale and the sellers were facing foreclosure, owing over \$349,000 in mortgages and tax liens. Respondent did not perform a comparative market analysis, but rather used one that had been performed by ReMax of Princeton in October, 2014. Respondent did not take any actions to confirm or corroborate the ReMax comparative market analysis; and

3. On or about March 17, 2015, Respondent presented to seller Herrington a Purchase and Sale Agreement with a purchase price in the amount of \$162,000 on behalf of KVM Investments, his own company. The agreement was drawn by Respondent as the seller, KVM Investments, and therefore, the contract did not contain an attorney review clause or Opinion 26 addendum. The contract stated that the purchase price was subject to existing liens on the property. Subsequently, the purchase price was changed to \$122,000, subject to all liens on the property. The contract disclosed that the buyer is an investor and that he intended to re-sell the property at a profit. The contract also disclosed that the price offered may be less than market value; and

4. Even though the listing agreement with Pinnacle Realtors naming Respondent as selling agent was in full force and effect, Respondent also included in the proposed contract a clause whereby seller would acknowledge that she had not been represented by buyer or any of the buyer's agents. The proposed contract did not make any provision for a commission to be paid; and

5. Along with the proposed contract of sale, Respondent presented to seller Herrington an "Action Plan" and a "Direct Sales Representative Compensation

Agreement” wherein he offered to pay a 3% commission back to Herrington and designated her as a “sales representative.” Deanna Herrington is not a real estate licensee. According to the terms of the agreement, the compensation was to be paid outside of the closing statement and was not to be disclosed to the banks who held the existing mortgages on the property; and

IT IS THEREFORE ORDERED AND AGREED that based on the above facts, Respondent Michael H. Kenyon admits to the following:

6. Respondent is in violation of N.J.A.C. 11:5-6.4(a) in that by attempting to purchase his client’s property on his own behalf, he created a conflict interest and did not protect the interests of his principle; and

7. Respondent is in violation of N.J.S.A. 45:15-17(e) (four counts) in that he demonstrated unworthiness, incompetency, bad faith or dishonesty by: (1) not substantiating the property market value; (2) by listing and offering to purchase a short sale property on his own behalf and offering a kickback to the seller without informing the lenders who held existing mortgages on a short sale property; (3) by offering a commission to an unlicensed person and (4) by attempting to engage in a real estate transaction outside the authority and supervision of his employing broker when the property was in fact listed with that broker; and it is further

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

ORDERED AND AGREED that Kenyon’s eligibility to hold any type of real estate license in New Jersey is revoked for life; and it is further

ORDERED AND AGREED that Kenyon shall pay a fine in the total amount of \$2,500; and it is further

ORDERED AND AGREED that the fine shall be payable on an installment plan to be agreed upon with the Collection Section of the Department of Banking and Insurance. The fine shall be payable by certified checks, cashier's checks or money orders 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 the remainder of the allegations contained in paragraphs 8, 9 and 10 of the Order to Show Cause are administratively dismissed; and it is further

ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file #10003160 as incorporated in the Order to Show Cause filed in this matter. The Commission reserves the right to take further administrative action if it obtains any other information that Kenyon 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

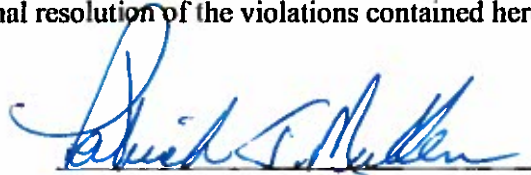
ORDERED AND AGREED that by signing below, Kenyon confirms that:

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.

Dated: 6/27, 2018


Patrick J. Mullen
Director of Banking

Consented to as to
Form, Content and Entry

Dated: June 25, 2018


Michael H. Kenyon