

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION) DOCKET NUMBER MON-19-001
) (REC File No. 10007354)
Complainant,)
) CONSENT ORDER
v.)
)
MICHAEL DANZIGER, licensed New Jersey)
real estate broker (Ref. No. 7838934))
)
Respondent.)

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 Michael Danziger (“Danziger”), a licensed real estate broker, may have violated various provisions of the real estate licensing law of the State of New Jersey; and

WHEREAS Danziger is 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 Danziger has violated certain provisions of the laws and regulations governing the conduct of New Jersey real estate licensees; and

WHEREAS Danziger has not had any prior complaints filed with the Commission; and

WHEREAS Danziger acknowledges that he is aware of his right to a plenary hearing on any violations which the Commission may allege he has committed and having had the advice of counsel on matters to which this Consent Order pertains, he is knowingly and voluntarily waiving the right to a hearing; and

WHEREAS the Commission and Danziger, 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, May 14, 2019; and

IT APPEARING that the matter against Danziger 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 15th day of May, 2019

ORDERED AND AGREED that Respondent Danziger admits the following facts:

1. Respondent Michael Danziger (“Danziger”) is a licensed New Jersey real estate broker, who was first licensed in 1978, and is currently licensed as broker of record of Option 1 Shore Realty LLC (“Option 1”) whose office is located at 2005 Route 35, Oakhurst, New Jersey; and

2. On or about September 19, 2017, Andrew and Sharon Calstrom (the “Sellers”) entered into a listing agreement with Danziger to list their home, located at 66 Maple Avenue, West Long Branch, New Jersey (the “Property”) for sale. The agreement granted Option 1 the exclusive right to sell the Property at a price of \$575,000 until January 20, 2018. The agreement provided that a commission of 5% of the sale price would be due and payable to Option 1 in the event that a sale of the Property was consummated during the effective period of the listing agreement; and

3. On or about September 19, 2017, the Sellers executed an “Informed Consent to Dual Agency” form, authorizing Option 1 and Danziger to act as disclosed dual agent in the sale of the Property if the opportunity arises; and

4. On or about November 21, 2017, the Sellers entered into a contract with Danny, Esther and Leon Cohen (the “Buyers”) for the sale of the Property. The contract sales price was

\$565,000, with a commission of 5% of the sale price due to Option 1 upon closing. Danziger represented both the Buyers and the Sellers as disclosed dual agent in the subject transaction; and

5. Danziger did advise the Sellers that the Buyers were related to Danziger prior to the execution of the above contract of sale; and

6. After the execution of the above contract, it was discovered that the Property was in a short sale situation and as a result, the Sellers, through their attorney, began negotiations with their lender for short sale approval for the Property; and

7. On or about April 19, 2018, at the direction of the Sellers' attorney, Danziger sent a second listing agreement for the Property to the Sellers. The agreement granted Option 1 the exclusive right to sell the Property at a price of \$575,000 until October 19, 2018 and provided that a commission of 6% of the sale price would be due and payable to Option 1 in the event that a sale of the Property was consummated during the effective period of the listing agreement; and

8. Upon advice from their attorney, the Sellers signed the second listing agreement; and

9. On or about April 24, 2018, the Buyers and Sellers entered into a second contract of sale for the Property. The contract sales price was \$555,000, with a commission of 6% of the sale price due to Option 1 upon closing; and

10. On or about May 14, 2018, the Sellers received approval from their lender for the consummation of the short sale of the Property on the terms set forth in the second contract of sale; and

11. On or about May 18, 2018, closing of title occurred, at which time a commission check in the amount of \$33,000, representing 6% of the sale price of the Property, was issued to Danziger by the closing agent in accordance with the terms of the second contract of sale; and

12. On or about May 22, 2018, Danziger deposited the \$33,000 commission check into the Option 1 operating account; and

13. On or about June 6, 2018, Danziger issued a check from the Option 1 operating account in the amount of \$8991, made payable to himself and deposited same into his personal bank account; and

14. On or about June 7, 2018, Danziger issued a personal check in the amount of \$8,991 to one of the Buyers, Leon Cohen; and

15. The above payment from Danziger to Leon Cohen was not included in the closing statement and was not otherwise disclosed to the Sellers or their lender; and it is further

ORDERED AND AGREED that based on the above facts, Respondent Danziger admits to the following:

1. Respondent Danziger's conduct is in violation of N.J.A.C. 11:5-6.4(a), in that by paying the buyer, Leon Cohen, who was his nephew, a portion of his commission for the sale of Property, without disclosing same to the Sellers or to the Sellers' short sale lender, Danziger failed in his obligation to deal fairly with all parties to the subject transaction; and

2. Respondent Danziger's conduct is in violation of N.J.S.A. 45:15-17(k), in that Danziger paid \$8,991 to the buyer, Leon Cohen, who was his nephew, out of his sale commission for the subject transaction, without entering into a written agreement for the payment of a rebate at the onset of the broker relationship; and in that said rebate was not paid in the form of a credit, reducing the amount of the commission payable to the broker or a check paid by the closing agent, but rather was paid directly from Danziger's personal bank account, as more fully described above.

Based on the above, it is hereby:

ORDERED AND AGREED that Danziger shall pay a fine in the amount of seven thousand, five hundred dollars (\$7,500). The fine shall be paid in full within ninety (90) days of the full execution of this Consent Order. 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 Danziger shall complete three (3) hours of continuing education in the subject area of "Agency." Proof of completion of the same 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

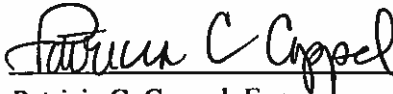
ORDERED AND AGREED that this Consent Order encompasses only the information in Commission investigation file # 10007354. The Commission reserves the right to take further administrative action if it obtains any other information that Danziger may have violated the Real Estate Brokers and Salespersons 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, Danziger confirms that:

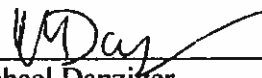
- a. He is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair his ability to knowingly and voluntarily execute this Consent Order; and
- b. He has received the advice of legal counsel on this matter and on the terms 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: May 15, 2019




Patricia C. Coppel, Esq.
Hearings and Regulatory Affairs Unit
New Jersey Real Estate Commission

Dated: April 10, 2019



Michael Danziger
Respondent

Dated: April 10, 2019



Barry S. Goodman, Esq.
Attorney for Respondent