

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION,)	DOCKET NO.: MOR-15-020
)	REC Ref. No. 10003153
Complainant,)	
)	
CHRISTINE MILCHECK, a licensed New Jersey)	FINAL DECISION AND ORDER
real estate salesperson,)	
License Ref. No. SP1008546,)	
)	
Respondent.)	

This matter was heard at a hearing by the New Jersey Real Estate Commission (“Commission”) at the Department of Banking and Insurance, State of New Jersey in the Commission Hearing Room, 20 West State Street, Trenton, New Jersey on June 28, 2016.

BEFORE: Commissioners Linda Stefanik, Eugenia Bonilla, Denise Illes, and Michael Timoni.

APPEARANCES: Marianne Gallina, Regulatory Officer (“RO Gallina”), appeared on behalf of the complainant, the New Jersey Real Estate Commission staff (“REC”). John A. Zohlman III, Esq. appeared on behalf of Respondent Christine Milcheck (“Respondent”).¹

PROCEDURAL HISTORY

The REC initiated this matter on its own motion through service of an Order to Show Cause (“OTSC”) dated November 17, 2015, pursuant to N.J.S.A. 45:15-17, N.J.S.A. 45:15-18, and N.J.A.C. 11:5-1.1 et seq.² The OTSC alleged the following: (1) the Respondent’s license is

¹ The Respondent failed to appear at the hearing. Her attorney, Mr. Zohlman, advised the Commission that the Respondent had some health issues and complications. However, he informed the Commission that he expected her to appear and was unsure why she failed to do so. Mr. Zohlman proceeded with the hearing without the Respondent.

² The OTSC also sought to revoke the Respondent’s real estate salesperson’s license pursuant to N.J.S.A. 45:15-19.1.

subject to revocation pursuant to N.J.S.A. 45:15-19.1 because she has been convicted of a theft or related offense; (2) the Respondent failed to comply with a subpoena and failed to provide documentation to the REC during its investigation, which demonstrates unworthiness, in violation of N.J.S.A. 45:15-17e; (3) the Respondent's conduct underlying her conviction for felony theft and residing in New Jersey as a fugitive, demonstrates unworthiness,³ bad faith, and dishonesty, in violation of N.J.S.A. 45:15-17e; (4) the Respondent was convicted of a crime, knowledge of which the REC did not have at the time of last issuing a real estate license to the Respondent, in violation of N.J.S.A. 45:15-17h; (5) the conduct underlying the Respondent's conviction demonstrates fraud or dishonest dealing, in violation of N.J.S.A. 45:15-17i; (6) the Respondent failed to notify the REC within 30 days of being charged with a crime, in violation of N.J.S.A. 45:15-17s; (7) the Respondent failed to notify the REC within 30 days of being convicted of a crime, in violation of N.J.S.A. 45:15-17s; and (8) the Respondent obtained a real estate license by fraud, misrepresentation, or deceit by failing to disclose the pending criminal Indictment against her on her license renewal application for the 2013-2015 license term as well as failing to disclose her conviction on her license renewal application for the 2015-2017 license term, in violation of N.J.S.A. 45:15-17n.

The Respondent, through her attorney, John A. Zohlman III, Esq., filed an Answer to the OTSC dated February 4, 2016, wherein she admitted to and denied certain allegations as set forth in the OTSC. Accordingly, the REC directed that a hearing be scheduled.

³ The OTSC alleges that the Respondent's underlying conduct that related to committing felony theft and residing in New Jersey as a fugitive demonstrates "untrustworthiness, bad faith and dishonesty." However, N.J.S.A. 45:15-17e, provides that the Commission may place on probation, suspend, or revoke the real estate license of New Jersey real estate licensee for "[a]ny conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty." The OTSC's reference to "untrustworthiness" appears to be a typographical error and "unworthiness" was meant.

A hearing was conducted on June 28, 2016, at which the following exhibits were admitted into evidence by the REC, without objection:

- S-1 The Respondent's license renewal qualifying questionnaire and answers from the 2013-2015 and 2015-2017 licensing terms, which were completed by the Respondent, dated June 27, 2013 and June 4, 2015, respectively;⁴ and computerized REC print-out detailing the Respondent's licensure activity and status.
- S-2 Email correspondence between REC Investigator, William Petro, and the Respondent, dated June 12, 2015 through June 20, 2015.
- S-3 Three REC Subpoenas directed to the Respondent at different addresses and issued by REC Investigator, William Petro, dated July 6, 2015.
- S-4 Respondent's handwritten response, dated July 2015, and follow-up email correspondence between Petro and the Respondent, dated August 18, 2015.
- S-5 Hopatcong Police Department Incident Report, dated October 22, 2011; Newton Town Municipal Court Complaint-Warrant Number 1915-W-2011-000355, in the matter of The State of New Jersey v. Christine M. Milcheck, dated October 24, 2011;⁵ and electronic print-out entitled "New Jersey Promis/Gavel Defendant Detail," dated July 17, 2015.

⁴ The Respondent's license renewal qualifying questionnaires for the 2013-2015 and 2015-2017 licensing terms are contained on the same document. Her answers on the qualifying questionnaires for both of these licensing periods were the same.

⁵ It is unclear from the documents contained in Exhibit S-5 on which date the Respondent was initially arrested after she was stopped for a motor vehicle violation in Hopatcong, New Jersey. The documents contained in Exhibit S-5 contain two different dates related to the Respondent's arrest, October 22, 2011 and October 24, 2011. For consistency, the earlier date of October 22, 2011 will be used throughout this Final Decision and Order when referencing to the date of the Respondent's arrest in New Jersey. It should also be noted that the OTSC alleges that the Respondent was stopped by the Newton Police Department for a motor vehicle violation on October 22, 2011.

- S-6 Indictment in the matter of The State of Arizona v. Christine Marie Milcheck, Complaint No. CR 2011-006415-001, dated July 6, 2011;⁶ and “Court Information Sheet (CIS)” in the matter of The State of Arizona v. Christine Marie Milcheck, Count Attorney Case Number CA2011024650, undated.
- S-7 Plea Agreement in the matter of The State of Arizona v. Christine Marie Milcheck, Complaint No. CR 2011-006415-001, dated June 17, 2013.
- S-8 Judgment and Orders of Restitution, Fines and Fees, Superior Court of the State of Arizona, in the matter of The State of Arizona v. Christine Marie Milcheck, Complaint No. CR 2011-006415-001, dated July 23, 2013.
- S-9 Uniform Conditions of Supervised Probation, Superior Court of the State of Arizona, in the matter of The State of Arizona v. Christine Marie Milcheck, Complaint No. CR 2011-006415-001, dated July 23, 2013.
- S-10 Suspension of Sentence-Probation Granted, Superior Court of the State of Arizona, Maricopa County, in the matter of The State of Arizona v. Christine Marie Milcheck, Complaint No. CR 2011-006415-001, dated July 23, 2013.⁷

However, the Respondent's statement, contained in Exhibit S-4 and the Hopatcong Police Department Incident Report provides that the Incident Location was at the “Post Office-32 Durban,” which is in Hopatcong, New Jersey rather than Newton, New Jersey.

⁶ The Grand Jury Indictment in this case was signed by the “Foreperson of the Grand Jury” on July 6, 2011; however, the Indictment was not filed until July 11, 2011. For constancy, the former date of July 6, 2011 will be used throughout this Final Decision and Order when referencing to the date the Indictment was entered.

⁷ The “Suspension of Sentence-Probation Granted” contains the date of July 23, 2013 at the top of each page of the document and was signed by the Deputy Clerk of the Superior Court of the State of Arizona, Maricopa County, on July 23, 2013. However, the document was not filed with the court until July 29, 2013. It is unclear from the documents provided and the testimony of Petro at the hearing on which date the Respondent's convictions were actually entered. Thus, for consistency throughout this Final Decision and Order, the former date of July 23, 2013 will be used when discussing the date of the Respondent's convictions.

TESTIMONY OF THE WITNESS

William Petro

REC investigator of 17 years, William Petro (“Petro”), testified on behalf of the REC and stated that in June 2015 he was assigned to investigate the present matter involving the Respondent. He stated that the present matter became known to the REC when a complaint was filed by the Respondent’s landlord following a landlord-tenant dispute with the Respondent and her husband. Petro stated that the Respondent’s landlord researched the Respondent and found out that the Respondent had criminal convictions in Arizona. Petro stated that he first became aware of the Respondent’s criminal convictions when the Respondent’s landlord inquired as to how someone that has two felony convictions would be allowed to maintain a real estate salespersons license in New Jersey.

With the information he obtained from the Respondent’s landlord, Petro stated that he met with the Respondent at her broker’s office on or about June 11, 2015. After Petro had discussed the landlord-tenant matter with the Respondent, Petro stated that he asked the Respondent about her alleged criminal history. Petro advised that the Respondent admitted that she had been convicted of theft charges in Arizona, and that she alleged that the convictions were a result of her being “railroaded” and it was all a misunderstanding that related to an employment issue. Petro stated that at the meeting with the Respondent, he verbally requested that the Respondent provide specific information to him, including a copy of the Judgment of Conviction, arrest records, probation reports, and the Respondent’s written explanation, which needed to include the Respondent’s perspective on the matter and why the REC was not advised of the matter even though the Respondent was licensed as a New Jersey real estate salesperson at the time of the charges were issued against her and also at the time of the conviction. He further

stated that he followed-up on this request via a telephone call and the email correspondence, which is contained in Exhibit S-2, and which requested that the Respondent provide the following to him:

the arrest report from Arizona related to the theft conviction; a Certified Judgment of Conviction related to the charges; and a record related to your current probationary status. A written and signed explanation of the time frame of the events related to this matter (such as the alleged charges, your initial notification of the charges, your subsequent arrest in NJ, your subsequent extradition to AZ, and your final conviction in AZ and return to NJ.) You should also include in your statement why there was no notice to NJREC of your initial arrest as required by NJREC regulations and why there was no notice to NJREC on your original license application for licensure if the charges were prior to your licensure or an explanation of why you indicated "No" on your subsequent renewal applications in 2013 and 2015.⁸

Petro then advised the Commission that the Respondent replied to his emailed request for documentation with a return email, which is also contained in Exhibit S-2. In the email, the Respondent advised him that she would have her attorney gather the documentation requested and have the attorney send it directly to Petro. However, Petro stated that he never received anything from the Respondent's attorney and subsequently, issued subpoenas, contained in Exhibit S-3, to every address he had for the Respondent, including her broker's office, the current place she was renting, and the address that she had on record with the REC, which was a P.O. Box. Petro stated that in her response to these subpoenas, the Respondent provided a handwritten statement, dated July 2015, contained in Exhibit S-4. Petro stated that the Respondent's statement did not provide a detailed explanation of the charges issued against her in Arizona or any specifics of the events that occurred that lead to her convictions. In addition to the Respondent's statement, Petro stated that the Respondent provided a Hopatcong Police

⁸ This information was contained in an email correspondence sent from Petro to the Respondent on June 16, 2015, which is contained in Exhibit S-2, and Petro read the email containing this information into evidence during his testimony.

Department Incident Report, contained in Exhibit S-5, Judgment and Orders of Restitution, Fines and Fees from the Superior Court of the State of Arizona, contained in Exhibit S-8, and Uniform Conditions of Supervised Probation from the Superior Court of the State of Arizona, contained in Exhibit S-9.

Petro further stated that he requested numerous times, and through the issuance of the subpoena, for the Respondent to submit to him a copy of the judgment issued against her, any court order, any sentencing order, any plea bargain, any police report, and anything that related to her conviction in Arizona, which were never provided to him by the Respondent. Petro stated that in order to get these documents, he contacted the Court Clerk for the Superior Court of the State of Arizona, Maricopa County, which provided copies of the Grand Jury Indictment, contained in Exhibit S-6, the plea agreement entered into by the Respondent, contained in Exhibit S-7, and the Suspension of Sentence-Probation Granted, which Petro stated was the conviction in this matter, contained in Exhibit S-10. Petro provided that Exhibit S-6 sets forth the charges issued against the Respondent from the Grand Jury of Maricopa County in the State of Arizona. Specifically, Petro provided that the Respondent was charged with the following two counts:

[o]n or between the 27th day of August, 2008 and the 19th day of August, 2009, without lawful authority, knowingly controlled DESERT DOGS LLC's US CASH AND CURRENCY, of a value of \$25,000 or more, but less than \$100,000, with the intent to deprive DESERT DOGS LLC of such property, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-701.01, and 13-801.⁹

and

[o]n or between the 27th day of August, 2008 and the 19th day of August, 2009, pursuant to scheme or artifice to defraud, knowingly

⁹ Exhibit S-6 provides that Count One of the Grand Jury Indictment was for Theft, a class 2 felony.

obtained a benefit from DESERT DOGS LLC, by means of fraudulent pretenses, representation, promises, or material omissions, in violation of A.R.S. §§ 13-2310, 13-701, 13-702, 13-702.01, and 13-801.¹⁰

Petro stated that Exhibit S-7 provides that the Respondent pleaded guilty to two counts of theft¹¹ and agreed to a sentence of probation and restitution. Petro testified that the Respondent's probation term was for a period of three years and included her supervision in New Jersey. He further noted that he believes that, as of the date of the hearing, the three-year probation term should be coming to an end shortly and that the Respondent, to his knowledge, has been compliant with the terms of her probation. Petro advised that as of the last time that he spoke with the Respondent, she was compliant in her restitution payments under the terms of her probation; however, he stated that he is unsure if she completed the restitution payments as of the date of the hearing.

Petro additionally testified that he reviewed the Respondent's licensing renewal records, which are held in the REC database. Petro stated that licensees are required to answer qualifying questionnaires prior to their license being renewed. He stated that he reviewed the Respondent's 2013-2015 and 2015-2017 license renewal qualifying questionnaires and accompanying answers, which are contained in Exhibit S-1. Based upon this review, Petro stated that on each of these qualifying questionnaires, the Respondent answered question one, which he stated asks about the licensee's previous arrests, charges, and convictions, in the negative.¹² Petro stated that he

¹⁰ Exhibit S-6 provides that Count Two of the Grand Jury Indictment was for Fraudulent Schemes and Artifices, a class 2 felony.

¹¹ Exhibit S-7 provides that the Defendant agreed to plead guilty to "Count 1 (as amended): Theft, a class 6 undesignated felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-701.01 and 13-201, committed on August 27, 2008" and "Count 2 (as amended): Theft, a class 6 undesignated felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801, committed on August 19, 2009."

¹² Exhibit S-1 provides that question one on the Respondent's 2013-2015 and 2015-2017 license renewal qualifying questionnaires asks "[s]ince your last New Jersey real estate license was issued or renewed have you been arrested

believes the Respondent's answers to question one on both her 2013-2015 and 2015-2017 qualifying questionnaires were inaccurate, based upon her arrest and subsequent convictions in Arizona.

Petro testified that the Respondent had previously advised him that she had an attorney in Arizona, who contacted the REC regarding this matter and asked how the Respondent should answer question one on the Respondent's license renewal qualifying questionnaire. Specifically, Petro stated that the Respondent informed him that she found some notes that stated that her attorney had contacted the REC and spoke with "Bob" and Bob informed her attorney that the Respondent should answer "No" to the questions on the qualifying questionnaire and provide "some documents" to the REC. Petro then stated that the next time he spoke with the Respondent, she informed him that her attorney spoke to Bob Spillane and also Sean Smith, both of whom are employed as REC investigators. Petro stated that he spoke with both Mr. Spillane and Mr. Smith regarding the Respondent's statement, and they both advised him that they have no recollection of a call with an attorney from Arizona. Petro stated that Mr. Spillane, who keeps extensive notes, found no notes related to this alleged conversation and further advised Petro that he would not have informed any individual to just answer "No" on a qualifying questionnaire. Further, Petro testified that he asked the Respondent to provide information relating to what documents were allegedly sent in response to this alleged conversation and additionally, where, how, and to whom they were sent. Petro stated that it appeared that no one had any information on the sending or receipt of any documents related to this alleged conversation with the REC.

(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?"

Petro further stated that the Respondent informed him that her husband had contacted the office manager at Weichert, her previous place of business,¹³ and claimed he was told that the office manager would “take care of it,” by contacting the REC and advising them of the Respondent’s arrest and charges in Arizona. However, Petro testified that he spoke with the office manager regarding this alleged conversation, who advised Petro that the Respondent’s husband did contact him and advised him that the Respondent would not be in the office because she had some legal matters to take care of in Arizona. Petro stated that the office manager knew no details of the legal matters that the Respondent needed to attend to, and he did not imply that he would advise the REC of the Respondent’s legal issues because he knew that real estate licensees need to advise the REC directly.

On cross-examination, Petro stated that he has no knowledge regarding any other criminal convictions or theft charges issued against the Respondent, other than the two felony Theft convictions from Arizona, which were the subject of the hearing. He further stated that he initially met with the Respondent in June 2015 regarding this matter, and the Respondent informed him of the charges, what information she believed was told to the REC, and what information she believed she was told by the REC. With regard to the particular charges, Petro advised that the Respondent informed him that she had a legal issue that was related to employment, but the Respondent did not advise him of the nature of and the circumstances behind the charges. He further testified that at the time he first met with the Respondent, he was unaware of who her former employer in Arizona was. He stated that he only discovered the

¹³ Petro indicated that the Respondent stated that her husband contacted Tony, the broker at Weichert; however, Petro stated that “Tony” was actually the office manager and not the broker of record. Additionally, the Respondent’s written statement, contained in Exhibit S-4, states that her husband spoke with “Carlos Siracusa from Weichert Corp . . . (my broker of record at that time). . . .” For consistency in this Final Decision and Order, the Respondent’s office manager will be referred to when discussing who the Respondent claimed her husband contacted at Weichert, rather than the Respondent’s broker.

name “Desert Dogs, LLC” when he received the requested documentation from the Superior Court of the State of Arizona, Maricopa County. Petro stated that he has not had an opportunity to examine the underlying facts of the Respondent’s convictions and has only been provided with the documentation supplied by the Respondent and the Superior Court of the State of Arizona related to the Respondent’s charges, plea agreement, convictions, and sentencing. He further noted that neither the Respondent nor the Superior Court of the State of Arizona provided him with any information or documentation related to the underlying factual basis for the Respondent’s convictions.

Petro further testified that the Respondent’s written statement, which is dated July 2015 and contained in Exhibit S-4, was in response to the issuance of the subpoenas, contained in Exhibit S-5, which were issued by Petro on July 6, 2015. Petro stated that he received Exhibit S-4 and associated documentation contained in Exhibits S-5, S-8, and S-9 from the Respondent on or about July 27, 2015.

Petro was directed to Exhibit S-4, which states “[i]n NJ these charges would have most likely been nothing more than a wage and hour dispute between an employer and employee,” and was asked if it was relevant to understand the underlying facts of the Respondent’s conviction. Petro testified that the underlying facts of the Respondent’s conviction would not have changed the fact that the Respondent was convicted of two counts of felony Theft in Arizona and her written statement is her opinion of the underlying rational for her conviction, rather than documentation from the Superior Court of the State of Arizona or a police report. Additionally, although the Respondent gave her opinion on why her convictions occurred, Petro stated that she ultimately failed to provide any documentation or address the circumstances underlying her convictions. Petro further stated that while the Respondent mentioned to him that the

convictions dealt with an employment issue related to unemployment, she did not provide any specific information to him. He further stated that the Respondent advised him in Exhibit S-4 that she was not aware of the charges or warrant issued for her arrest in Arizona until she was arrested during a motor vehicle stop in Hopatcong, New Jersey, and he had no reason to doubt her statement in this regard.

Petro further stated that while the Respondent informed him that her husband contacted the office manager at Weichert who stated that he would "take care of it," he cannot speak as to the specific contents of the conversation between the Respondent's husband and her office manager, and does not know what was then relayed to the Respondent as a result of that conversation. As such, he cannot advise the Commission whether the Respondent accurately advised him of what occurred during the alleged conversation with the Respondent's husband and the Respondent's office manager. Petro reiterated that the Respondent's office manager denied informing the Respondent's husband that he would "take care of" informing the REC of the Respondent's legal issues on behalf of the Respondent.

Petro restated that the Respondent advised him that her attorney had been in contact with REC investigators, Bob Spillane and Sean Smith. Petro indicated that the Respondent's initial statement was that her attorney spoke with "Bob" at the REC, and Petro stated that this could have been almost anyone, as the REC has a few employees by the name of "Bob." Petro then stated that after the Respondent's initial statement, the Respondent advised him that her attorney spoke with Bob Spillane and Sean Smith. Petro stated that when the Respondent came up with specific names, he felt it reasonable to speak with the individuals to determine if they remembered any contact with an Arizona attorney that dealt with felony convictions and how to answer specific questions on a licensee's license renewal qualifying questionnaire, which they

did not. Petro stated that it struck him as peculiar that the Respondent referenced specific names of REC investigators; however, he additionally stated that he does not have any information that the alleged conversations took place. He stated that he never spoke with the Respondent's attorney in Arizona regarding whether the attorney spoke with anyone at the REC regarding this matter.

Petro further stated that he is not completely familiar with how the online license renewal qualifying questionnaire is completed. However, he stated that to his knowledge, real estate salespersons log into the REC's website and answer the questions during their license renewal period. Petro further stated that he was able to get a copy of Exhibit S-1, which contains the Respondent's answers to her 2013-2015 and 2015-2017 license renewal qualifying questionnaires, by logging into the REC's database, to which he has access. Petro stated that he did not do anything independently to verify that Exhibit S-1 were the questions and answers provided by the Respondent, other than review the qualifying questionnaires in the REC's database.

After receiving the documentation from the Superior Court of the State of Arizona, Maricopa County, Petro stated that he did not have any further contact with the Respondent and did not attempt to contact the Respondent. He indicated that once he received the applicable documentation, his investigation into the Respondent's criminal convictions was complete. Petro additionally stated that he is not aware of any information regarding whether the Respondent has been abiding by the terms of her probation and additionally, has no information related to whether the Respondent has engaged in any subsequent criminal actions.

FINDINGS OF FACT

Based on the pleadings, the testimony of the witness, and the documentary evidence duly admitted into the record, the Commission makes the following findings of fact.

1. The Respondent is a licensed real estate salesperson, actively licensed as a salesperson with Joe Tekula Realty, Inc., d/b/a Century 21 Joe Tekula Realtors, licensed New Jersey real estate broker, whose office is located at 201 Route 10 East, Succasunna, New Jersey. She was licensed with Weichert Co., d/b/a Weichert REO Services, licensed New Jersey real estate broker, whose office is located at 1625 Route 10 East, Morris Plains, New Jersey from September 28, 2011 through July 18, 2013. Respondent was first licensed in New Jersey on October 21, 2010 with Joe Tekula Realty and was employed there until September 27, 2011, at which time she transferred her license to Weichert, as set forth above.
2. On or about July 6, 2011, the Respondent was indicted in the Superior Court of the State of Arizona, Maricopa County with one count of Theft, a class 2 felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801, and one count of Fraudulent Schemes and Artifices, a class 2 felony, in violation of A.R.S. §§ 13-2310, 13-701, 13-702, 13-702.01, and 13-801.
3. On or about October 22, 2011, the Respondent was stopped for a motor vehicle violation in Hopatcong, New Jersey, at which time the police officer became aware of an outstanding warrant in Arizona for the Respondent's arrest. The Respondent was arrested and subsequently returned to Arizona to address the charges issued against here there.

4. The Respondent failed to notify the REC of being charged with a crime within 30 days of the date of her arrest on October 22, 2011 on an outstanding warrant issued against her in Arizona, which related to her July 6, 2011 Indictment.
5. On or about June 17, 2013, the Respondent entered a plea of guilty to one count of Theft, a class 6 undesignated felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801, committed on August 27, 2008, and one count of Theft, a class 6 undesignated felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801, committed on August 19, 2009.
6. On or about June 27, 2013, the Respondent answered questions on the qualifying questionnaire to renew her real estate salesperson license for the license renewal period of 2013-2015. On the qualifying questionnaire, the Respondent answered question one in the negative, which provides:

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?

7. On or about July 23, 2013, the Superior Court of the State of Arizona, Maricopa County, entered a “Judgment and Orders of Restitution, Fines and Fees” against the Respondent, which set forth the restitution and fine responsibilities related to the Respondent’s guilty plea and set forth the Respondent’s probationary and restitution responsibilities.
8. On or about July 23, 2013, the Superior Court of the State of Arizona, Maricopa County, entered a “Suspension of Sentence-Probation Granted” against the

Respondent, which accepted the Respondent's June 17, 2013 plea agreement. On or about July 29, 2013, the "Suspension of Sentence-Probation Granted" was filed by the court.

9. The Respondent failed to notify the REC of her conviction within thirty days of the conviction being entered on or about July 23, 2013.
10. On or about June 4, 2015, the Respondent answered questions on the qualifying questionnaire to renew her real estate salesperson license for the license renewal period of 2015-2017. On the qualifying questionnaire, the Respondent again answered question one in the negative, which provides:

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?

11. On several occasions, Petro requested that the Respondent provide to him, as part of the REC's investigation into the Respondent's criminal charges and convictions, information and documentation regarding the Arizona criminal charges and conviction issued against the Respondent. The Respondent failed to provide any of the documentation originally requested by Petro verbally and in writing.
12. On or about July 6, 2015, Petro issued a subpoena requiring that the Respondent appear and provide the documentation originally requested. However, the Respondent only provided partial documentation in response to the subpoena, and Petro obtained copies of the Indictment and sentencing documents directly from the Superior Court of the State of Arizona.

CONCLUSIONS OF LAW

In light of the above findings of fact, the Commission makes the following conclusions of law with regard to the charges contained in the OTSC and summarized above.

1. The Respondent violated N.J.S.A. 45:15-17e by demonstrating unworthiness by failing to fully comply with a subpoena and provide complete documentation in support of a REC investigation.
2. The Respondent violated N.J.S.A. 45:15-17e by demonstrating unworthiness, bad faith, and dishonesty by committing felony Theft, which is the subject of her June 23, 2013 convictions for two counts of Theft, both class 6 undesignated felonies, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801 in the State of Arizona.
3. Respondent's license is subject to revocation pursuant to N.J.S.A. 45:15-19.1 because she was convicted of Theft offenses.
4. The Respondent violated N.J.S.A. 45:15-17h by being convicted of a crime, knowledge of which the REC did not have at the time of last issuing a license to her.
5. The Respondent violated N.J.S.A. 45:15-17l as the Respondent's convictions for felony theft demonstrate fraud or dishonest dealing.
6. The Respondent violated N.J.S.A. 45:15-17s by failing to notify the REC within 30 days after being charged with a crime.
7. The Respondent violated N.J.S.A. 45:15-17s by failing to notify the REC within 30 days of being convicted of a crime.
8. The Respondent violated N.J.S.A. 45:15-17n by obtaining a real estate license by fraud, misrepresentation, or deceit when she failed to disclose the pending criminal

Indictment against her on her license renewal qualifying questionnaire for the 2013-2015 licensing term.

9. The Respondent violated N.J.S.A. 45:15-17n by obtaining a real estate license by fraud, misrepresentation, or deceit when she failed to disclose her conviction on her license renewal qualifying questionnaire for the 2015-2017 licensing term.

DETERMINATION AND ORDER

At the conclusion of the hearing and executive session in this matter, the Commission voted in favor of finding the violations and imposing the sanctions described in this Final Decision and Order. In arriving at the determination in this matter, the Commission took into consideration the testimony presented, and the undisputed documentary evidence admitted at the hearing.

The Real Estate License Act, N.J.S.A. 45:15-1 et seq. (“Act”), charges the Commission with the “high responsibility of maintaining ethical standards among real estate brokers and sales[persons]” in order to protect New Jersey real estate consumers. Goodley v. New Jersey Real Estate Commission, 29 N.J. Super. 178, 181-182 (App. Div. 1954). The nature and duties of a real estate business are grounded in interpersonal, fiduciary, and business relationships and demand the utmost honesty, trust, and good conduct. Maple Hill Farms, Inc. v. New Jersey Real Estate Commission, 67 N.J. Super. 223, 232 (App. Div. 1961); Division of New Jersey Real Estate Commission v. Ponsi, 39 N.J. Super. 526, 527 (App. Div. 1956). Courts have long recognized that the real estate sales industry should exclude individuals who are incompetent, unworthy, and unscrupulous, in order to protect the public interest. See Division of New Jersey Real Estate Commission v. Ponsi, supra, 39 N.J. Super. at 532-533. Thus, the Commission has the power to suspend, revoke, or place on probation the license of any licensee and institute “a

penalty of not more than \$5,000 for the first violation, and a penalty of not more than \$10,000 for any subsequent violation” for any conduct which violates the Act. N.J.S.A. 45:15-17.

The facts in this matter demonstrate that on or about July 6, 2011, the Respondent was indicted in the Superior Court of the State of Arizona, Maricopa county, on one count Theft and one count of Fraudulent Schemes and Artifices, both listed as class 2 felonies. Specifically, Count One of the Indictment in this matter provides that the Respondent

[o]n or between the 27th day of August, 2008 and the 19th day of August, 2009, without lawful authority, knowingly controlled DESERT DOGS LLC’s US CASH AND CURRENCY, of a value of \$25,000 or more, but less than \$100,000, with the intent to deprive DESERT DOGS LLC of such property, . . .

and Count Two of the Indictment provides that the Respondent “[o]n or between the 27th day of August, 2008 and the 19th day of August, 2009, pursuant to scheme or artifice to defraud, knowingly obtained a benefit from DESERT DOGS LLC, by means of fraudulent pretenses, representation, promises, or material omissions.” It was determined through Petro’s testimony that Desert Dogs, LLC was the Respondent’s former employer in Arizona. Thereafter, on or about October 22, 2011, the Respondent was arrested during a motor vehicle stop in Hopatcong, New Jersey, related to an outstanding warrant issued against her as a result of her Indictment in Arizona. The Respondent subsequently, on or about June 17, 2013, pleaded guilty to two counts of Theft, both class 6 undesignated felonies, and was sentenced to a term of probation and restitution on or about July 23, 2013.

The OTSC alleges that the Respondent’s real estate license is subject to revocation pursuant to N.J.S.A. 45:15-19.1, as she was convicted of a theft offense. N.J.S.A. 45:15-19.1 compels the Commission to revoke the license of a licensee if said licensee is “convicted in a court of competent jurisdiction in the State of New Jersey or any state (including federal courts)

of forgery, burglary, robbery, any theft or related offense with the exception of shoplifting. . . .”

Here, as noted above, on or about June 17, 2013, the Respondent pleaded guilty to two counts of Theft, both class 6 undesignated felonies in Arizona, in violation of A.R.S. §§ 13-1801,¹⁴ 13-1802,¹⁵ 13-701,¹⁶ 13-702,¹⁷ 13-702.01,¹⁸ and 13-801.¹⁹ Additionally, the Respondent’s plea, as previously noted, was accepted, she was convicted of two counts of felony Theft, as designated in her plea agreement, and a “Suspension of Sentence-Probation Granted” was entered by the Superior Court of the State of Arizona, Maricopa County, on or about July 23, 2013. Both of the Respondent’s convictions entered into by the Superior Court of the State of Arizona are considered theft offenses, and based upon the facts presented in this matter, the Respondent’s convictions relate to thefts occurring while she was employed with Desert Dogs, LLC, the Respondent’s former employer, and in an amount exceeding \$25,000. As such, the Respondent’s two felony Theft convictions in Arizona are not considered shoplifting offenses. As the Respondent pleaded guilty to and was convicted of two felony theft offenses in a court of competent jurisdiction in another state, N.J.S.A. 45:15-19.1 compels the revocation of the Respondent’s real estate license. See NJREC v. Lori Mase, Dkt. No. MOR-08-042, Final Order (12/15/09) (Respondent’s license was revoked for five years after conviction for Theft by

¹⁴ A.R.S. § 13-1801 sets forth the definitions that are used in the particular title and section.

¹⁵ A.R.S. § 13-1802 sets forth the theft classifications and definitions; however, it is unclear from both the Respondent’s Plea Agreement and the Superior Court of the State of Arizona, Maricopa County, Suspension of Sentence-Probation Granted of which theft classification the Respondent was convicted.

¹⁶ A.R.S. § 13-701 sets forth specific guidelines for sentencing of felony convictions, including aggravating and mitigating factors and consecutive terms of imprisonment.

¹⁷ A.R.S. § 13-702 sets forth guidelines for first time felony offenders.

¹⁸ A.R.S. § 13-702.01 sets forth exceptional circumstances, and aggravating and mitigating factors related to sentencing. A.R.S. § 13-702.01 was repealed effective January 1, 2009, which was prior to the Respondent’s plea, conviction, and sentencing.

¹⁹ A.R.S. § 13-801 sets forth conditions for the imposition of monetary penalties relating to felony convictions.

Deception, in violation of N.J.S.A. 45:15-19.1); NJREC v. Michael Ricciardi, Dkt. No. MOR-09-045, Final Order (01/10/11) (Respondent's salesperson license was revoked for five years, fined \$2,500 after theft conviction).

The OTSC additionally alleges that the conduct underlying the Respondent's two felony Theft convictions, "residing in New Jersey as a fugitive from justice and by her actions as set forth . . . above"²⁰ demonstrates unworthiness, bad faith, and dishonesty, in violation of N.J.S.A. 45:15-17e. While the OTSC alleges that the Respondent's actions in residing in New Jersey as fugitive from justice, in addition to the conduct underlying her Theft convictions, demonstrate unworthiness, bad faith, and dishonesty, in violation of N.J.S.A. 45:15-17e, the testimony provided by Petro provided that the Respondent did not know that there were criminal charges issued against her in Arizona or that there was an outstanding warrant for her arrest related to those criminal charges until she was arrested during a motor vehicle stop in Hopatcong, New Jersey on or about October 22, 2011. As such, there is not enough evidence in the record to conclude that the Respondent knowingly resided in New Jersey "as a fugitive from justice" or that her actions in residing in New Jersey during that time demonstrated unworthiness, bad faith, and dishonesty, in violation of N.J.S.A. 45:15-17e.

The OTSC also alleges that the Respondent's convictions for felony Theft demonstrate fraud or dishonest dealing in violation of N.J.S.A. 45:15-17l. N.J.S.A. 45:15-17e and l, which provide that a licensee violates the Act if said licensee is deemed to engage in "e. [a]ny conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty" and "l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing[.]" Here, as previously noted, the Respondent pleaded

²⁰ It is unclear from the OTSC what is meant by "her actions as set forth . . . above" as the OTSC alleges multiple violations against the Respondent and this statement does not specifically reflect any single or multiple violations.

guilty to and was convicted of two counts of felony Theft in Arizona. The Respondent failed to appear to testify at the hearing in this matter. However, through the testimony of Petro and the documents obtained from the Superior Court of the State of Arizona, as well as the documents received from the Respondent, the Respondent's convictions relate to theft occurring during the course of her employment with Desert Dogs, LLC. Specifically, the Respondent convictions involve the Respondent controlling and depriving her employer of over \$25,000, and as a result of her convictions, the Respondent was sentenced to provide restitution to Desert Dogs, LLC in the amount of \$29,552.75. See Exhibits S-7, S-8, and S-10. The nature and duties of the real estate business are grounded in interpersonal, fiduciary, and business relationships that demand the utmost honesty, trust, and good moral character. REC v. Stephen Bluzis, Dkt. No. MOR 15-004, Final Order (09/12/16) (citing Ellsworth Dobbs, Inc. v. Johnson and Johnson, 50 N.J. 528, 553 (1967)). The Respondent's act of committing theft offenses against her prior employer runs contrary to these standards and clearly demonstrates unworthiness, bad faith, and dishonesty, in violation of N.J.S.A. 45:15-17e, as well as dishonest dealing, in violation of N.J.S.A. 45:15-17l. Thus, given the serious nature of the Respondent's violation and convictions, license revocation is appropriate.

The OTSC further alleges that the Respondent's failure to fully comply with a subpoena issued by the REC and provide documentation in support of a REC investigation demonstrates unworthiness, in violation of N.J.S.A. 45:15-17e, which, as noted above, provides that a licensee violates the Act if said licensee is deemed to engage in "[a]ny conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty." N.J.S.A. 45:15-17e additionally provides that

[t]he failure of any person to cooperate with the [C]ommission in the performance of its duties or to comply with a subpoena issued

by the [C]ommission compelling the production of materials in the course of an investigation, or the failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness[.]

In the present matter, Petro testified that he requested that the Respondent provide him with a detailed explanation of the charges against her and her subsequent convictions as well as providing specific documentation related to her criminal action. Petro additionally stated that after requesting said information verbally and in writing, the Respondent failed to provide same to him. Thereafter, Petro testified that he issued a subpoena, contained in Exhibit S-3, for the following information:

1. A copy of the initial arrest report related to the aforementioned matter.
2. A certified copy of the Judgment of Conviction related to the aforementioned matter.
3. A record of your current probationary status related to the aforementioned matter.
4. A written and signed statement in explanation of:
 - a. The time frame of the events related to the aforementioned matter including but not limited to the alleged charges
 - b. Your initial notification of the charges
 - c. Your subsequent arrest in New Jersey
 - d. Your final conviction and sentencing in Arizona and return to New Jersey.
5. Your statement must include why there was no notice to the New Jersey Real Estate Commission (NJREC) of your initial arrest as required by NJREC regulations and why there was no notice to NJREC on your original license application if the aforementioned charges were prior to your licensure or why you indicated "No" on your subsequent renewal applications in 2013 and 2015.

In response to the issued subpoena, Petro testified that the Respondent provided only a handwritten statement, contained in Exhibit S-4, which did not provide any detail regarding the charges issued against the Respondent in Arizona, the Hopatcong Police Department Incident

Report, contained in Exhibit S-5, Judgment and Orders of Restitution, Fines and Fees from the Superior Court of the State of Arizona, contained in Exhibit S-8, and Uniform Conditions of Supervised Probation from the Superior Court of the State of Arizona, contained in Exhibit S-9. The Respondent failed to provide a police report related to the charges in Arizona, a certified copy of the judgment, and the status of her current probationary term. Petro stated that he had to contact the Superior Court of the State of Arizona, Maricopa County, in order to obtain additional documentation related to the Respondent's criminal action, as she failed to provide same to him. The Respondent's actions in not fully cooperating in the REC's investigation into her criminal convictions and her failure to fully respond to Petro's subpoena for information and documentation, clearly demonstrate unworthiness as set forth in N.J.S.A. 45:15-17e.

The OTSC additionally alleges that the Respondent failed to notify the Commission within 30 days of being charged with a crime and within 30 days of being convicted of a crime, both in violation of N.J.S.A. 45:15-17s, which provides that a licensee violates the Act if said licensee

[f]ail[s] to notify the commission within 30 days of having been convicted of any crime, misdemeanor or disorderly persons offense, or of having been indicted, or of the filing of any formal criminal charges, or of the suspension or revocation of any real estate license issued by another state, or of the initiation of formal disciplinary proceedings in another state affecting any real estate license held, or failing to supply any documentation available to the licensee that the commission may request in connection with such matter.

Here, the Respondent was indicted by the Grand Jury in Arizona on or about July 6, 2011 on one count of Theft and one count of Fraudulent Schemes and Artifices, both class 2 felonies. The Respondent failed to notify the REC within 30 days of this date. However, Petro's testimony provided that the Respondent did not know about the Indictment and subsequent warrant for her

arrest in relation to the Indictment until she was stopped for a motor vehicle violation in Hopatcong, New Jersey on or about October 22, 2011. However, even if this was the case, the Respondent still failed to inform the REC of the charges issued against her within 30 days from the date of her arrest in New Jersey on the outstanding Arizona warrant. Petro further noted during this testimony that the Respondent indicated that her husband was informed by her office manager that he would “take care of it” by informing the REC of the Respondent’s legal troubles. There was no evidence presented at the hearing that would suggest that this conversation took place in the way the Respondent alleges. In fact, Petro stated that he spoke with the Respondent’s office manager, who remembered a conversation with the Respondent’s husband, but the office manager informed Petro that he never informed the Respondent’s husband that he would contact the REC on the Respondent’s behalf. Even so, pursuant to N.J.S.A. 45:15-17s, it is the Respondent’s duty, as the licensee, to make sure that the REC is notified of the charges issued against her. The Respondent failed to do so, and as such, the Respondent’s failure to notify the REC of the charges issued against her within 30 days violated N.J.S.A. 45:15-17s.

Moreover, the Respondent pleaded guilty to two counts of felony Theft on or about June 17, 2013. The Respondent’s plea was subsequently accepted by the Superior Court of the State of Arizona, Maricopa County, and a “Suspension of Sentence-Probation Granted” was entered on or about July 23, 2013. Petro testified the Respondent failed to notify the REC within 30 days of the date of her conviction. In fact, Petro stated that the REC was not made aware of the Respondent’s charges or conviction until it received a complaint from her landlord in June 2015, almost 2 years after her convictions were entered. As such, the Respondent committed an

additional violation N.J.S.A. 45:15-17s by failing to notify the REC within 30 days of her July 23, 2013 convictions.

Further, the OTSC alleges that the Respondent failed to disclose the pending criminal Indictment against her on her license renewal application for the 2013-2015 licensing term and she failed to disclose her conviction on her license renewal application for the 2015-2017 licensing term and in turn, obtained a real estate license through fraud, misrepresentation, or deceit, in violation of N.J.S.A. 45:15-17n. N.J.S.A. 45:15-17n provides that a licensee violates the Act if said licensee “[p]rocur[ed] a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit.” The undisputed facts in evidence provide that the Respondent provided false answers on both her 2013-2015 and 2015-2017 license renewal qualifying questionnaires. Specifically, the Respondent incorrectly answered “No” in relation to question one on both qualifying questionnaires which asks:

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?

The Respondent submitted her 2013-2015 license renewal qualifying questionnaire to the REC on or about June 27, 2013. At the time of her answering this qualifying questionnaire, the Respondent was already aware of the charges issued against her in Arizona, as she was arrested on the outstanding warrant on October 22, 2011 in Hopatcong, New Jersey. Moreover, the Respondent entered into a plea agreement on or about June 17, 2013, wherein she pleaded guilty to two counts of felony Theft. There has been no evidence entered into the record that would support the Respondent’s claims that she was informed by REC investigators to answer this

question in the negative, especially in light of the Respondent's knowledge of the charges issued against her and her entering into a plea agreement a mere 10 days before answering and submitting her license renewal qualifying questionnaire. Thus, although the Respondent knew that she was charged with felony offenses in Arizona and had entered into a plea agreement prior to submitting her 2013-2015 license renewal qualifying questionnaire, she knowingly and fraudulently misrepresented her answers on her 2013-2015 license renewal qualifying questionnaire in order to procure her license renewal, in violation of N.J.S.A. 45:15-17n.

Additionally, the Respondent submitted her 2015-2017 license renewal qualifying questionnaire on or about June 4, 2015. The Respondent was convicted and sentenced on or about July 23, 2013, which was after she submitted her 2013-2015 license renewal qualifying questionnaire on or about June 27, 2013. As such, the Respondent was required to address this conviction on her 2015-2017 license renewal qualifying questionnaire. As noted above, the Respondent inaccurately answered question one in the negative when she, in fact, was convicted of a crime after her real estate license was last renewed in 2013. Thus, the Respondent knowingly and fraudulently misrepresented her answers on her 2015-2017 license renewal qualifying questionnaire in order to procure her license renewal, in violation of N.J.S.A. 45:15-17n.

Lastly, the OTSC alleges that the Respondent was convicted of a crime, knowledge of which, the REC did not have at the time of last issuing a license to her, in violation of N.J.S.A. 45:15-17h. N.J.S.A. 45:15-17h provides that a licensee violates the Act if said licensee "[is] convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee." As noted above, on or about July 23, 2013, the Respondent was convicted of two counts of felony Theft in Arizona. Petro testified that the REC was not

aware of the Respondent's two convictions for felony Theft in Arizona until June 2015 when he was assigned to investigate a complaint against the Respondent, which was filed with the REC by the Respondent's landlord. Moreover, as discussed above, the Respondent failed to notify the REC within 30 days of the charges being issued against her and within 30 days of her convictions for felony Theft, and she inaccurately answered question one, regarding her charges and convictions, on both of her 2013-2015 and 2015-2017 license renewal qualifying questionnaires. As the Respondent was convicted of two counts of felony Theft in Arizona and the REC had no knowledge of her convictions prior to reissuing her real estate salespersons license in both 2013 and 2015, she additionally violated N.J.S.A. 45:15-17h.

As noted above, pursuant to N.J.S.A. 45:15-17, that the Commission may institute "a penalty of not more than \$5,000 for the first violation [of the Act], and a penalty of not more than \$10,000 for any subsequent violation." In Kimmelman v. Henkels & McCoy, Inc., 108 N.J. 123 (1987), the Supreme Court established the following seven factors in order to evaluate the imposition of fines in administrative proceedings, and these factors are applicable to this matter, as the imposition of penalties under N.J.S.A. 45:15-17 is being sought: (1) the good or bad faith of the respondent; (2) the respondent's ability to pay; (3) amount of profits obtained from the illegal activity; (4) injury to the public; (5) duration of the illegal activity or conspiracy; (6) existence of criminal or treble actions; and (7) past violations. Id. at 137-139. Each of these factors is discussed below.

First, the Respondent demonstrated bad faith by stealing over \$25,000 from her former employer, which in the basis for her two felony Theft convictions. Additionally, the Respondent demonstrated bad faith by failing to notify the Commission within 30 days of being charged and convicted of a crime, as well as failing to disclose that she had been charged with a crime on her

2013-2015 license renewal qualifying questionnaire and failing to disclose that she had been convicted of a crime on her 2015-2017 license renewal qualifying questionnaire.

Second, no evidence was presented during the hearing regarding the Respondent's ability to pay a fine. Currently, the Respondent is employed as a licensed salesperson with Joe Tekula Realty, Inc., d/b/a Century 21 Joe Tekula Realtors.

Third, the Respondent's theft offenses against her former employer allowed her to obtain the use of over \$25,000 from August 27, 2008 through July 23, 2013, when her conviction was entered. See Exhibit S-7. As part of her sentence, the Respondent agreed to make restitution to her former employer in the amount of \$29,552.75. See Exhibit S-7, S-8, and S-10.

Fourth, in order to protect consumers, the Commission is charged with the "high responsibility of maintaining ethical standards among real estate brokers and sales[persons]." Goodley v. New Jersey Real Estate Comm'n, supra at 182. Therefore, the public is harmed when individuals in a fiduciary position violate their responsibilities and fail to comply with the Act and corresponding regulations of this State. In this case, the Respondent violated her responsibilities by stealing from a former employer, failing to timely notify the Commission of being charged with and then convicted of a crime, and failing to disclose the charges issued against her and subsequent convictions on her 2013-2015 and 2015-2017 license renewal qualifying questionnaires. Also, the public's confidence in the real estate industry is eroded when a licensee is unable to conduct him or herself in accordance with the high standards expected of licensee and the profession. Respondent therefore displayed character that is contrary to the principal intent behind the Act and regulations: to "protect consumers by excluding 'undesirable, unscrupulous and dishonest persons . . . from the real estate business.'" Sammarone v. Bovino 395 N.J. Super. 132 (App. Div.), 193 N.J. 275 (2007); see also Tobias v.

Comco/America, Inc. 96 N.J. 173, 180 (1984); Kazmer-Standish Consultants, Inc. v. Schoeffel Instruments Corp. 89 N.J. 286, 290 (1982); and Markheim-Chalmers, Inc. v. Masco Corp. 332 N.J. Super. 452, 457 (App. Div. 1999).

Fifth, pursuant to the Respondent's June 17, 2013 plea agreement, Respondent's first theft offense against her former employer occurred on or about August 27, 2008 and her second theft offense against her former employer occurred on or about August 19, 2009. See Exhibit S-7. Thus, her criminal activity occurred over a period of one year. However, the Respondent was not required to make restitution payments until four years after her last theft occurred, allowing her to continue to benefit from the funds stolen during that period of time.

Sixth, the underlying conduct which forms the basis for this proceeding is criminal in nature. The Respondent's actions caused her to be indicted on or about July 6, 2011 on one count of felony Theft, a class 2 felony, and one count of Fraudulent Schemes and Artifices, a class 2 felony. The Respondent then pleaded guilty to two counts of Theft, both class 6 undesignated felonies in Arizona. The Respondent was sentenced to a three-year term of probation and ordered to make restitution to her former employer in the sum of \$29,552.75.

Lastly, there is no evidence of prior violations of the Act or regulations of this State by Respondent.

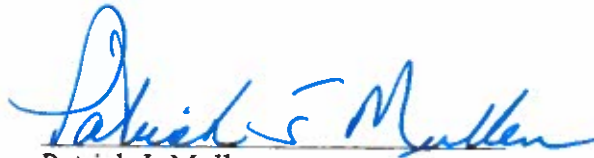
Accordingly, and pursuant to N.J.S.A. 45:15-17, the Commission imposes the following sanctions:

1. Respondent Christine Milcheck shall pay a total fine in the amount of \$6,000 as follows:
 - a. \$1,000 for violating N.J.S.A. 45:15-17e by demonstrating unworthiness when she failed to fully comply with the subpoenas issued and failed to provide documentation in support of a REC investigation;

- b. \$2,000 for violating N.J.S.A. 45:15-17h by being convicted of a crime, knowledge of which the REC did not have at the time of last issuing a license to her;
 - c. \$500 for violating N.J.S.A. 45:15-17s by failing to notify the REC within 30 days of being charged with a crime;
 - d. \$500 for violating N.J.S.A. 45:15-17s by failing to notify the REC within 30 days of having been convicted of a crime; and
 - e. \$1,000 for violating N.J.S.A. 45:15-17n by procuring her real estate license by misrepresentation due to her failure to disclose being charged with a crime on her 2013-2015 license renewal application; and
 - f. \$1,000 for violating N.J.S.A. 45:15-17n by procuring her real estate license by misrepresentation due to her failure to disclose being convicted of a crime on her 2015-2017 license renewal application.
2. Respondent Christine Milcheck's real estate salesperson license shall be revoked for a period of five years commencing from the date of this Final Order. Respondent Christine Milcheck shall not be eligible for any real estate license during the period of revocation.

SO ORDERED this 23rd day of May, 2017.

By: Linda Stefanik, President
Eugenia Bonilla, Vice President
Denise Illes, Commissioner
Michael Timoni, Commissioner



Patrick J. Mullen
Director of Banking