

NEW JERSEY REAL ESTATE COMMISSION

)	Docket No.: PAS-16-020
NEW JERSEY REAL ESTATE)	REC Ref No.: 10004370
COMMISSION,)	
)	
Complainant,)	
)	
v.)	FINAL ORDER OF
)	DETERMINATION
ANTHONY ARDIS, a licensed New Jersey)	
real estate salesperson (Ref. No. 9480834),)	
)	
Respondent.)	

THIS MATTER was heard by the New Jersey Real Estate Commission (“Commission”) in the Department of Banking and Insurance, State of New Jersey at the Real Estate Commission Hearing Room, 20 West State Street, Trenton, New Jersey on April 4, 2017.

BEFORE: Commissioners Linda Stefanik, Sanjeev Aneja, Kathryn Godby Oram, Denise Illes and Harold J. Poltrock.

APPEARANCES: John Rossakis, Regulatory Officer, appeared on behalf of the complainant, the New Jersey Real Estate Commission staff (“REC”). Gregory Aprile, Esq. appeared on behalf of Respondent Anthony Ardis (“Respondent”). The Respondent was present at the hearing.

STATEMENT OF THE CASE

The REC initiated this matter on its own motion through service of an Order to Show Cause (“OTSC”) dated December 2, 2016, 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.

The charges contained in the OTSC stem from the Respondent's conduct underlying a recent criminal conviction. While maintaining an active license as a real estate salesperson, the Respondent served as Director of Management Services at the Passaic Valley Sewage Commission ("PVSC"). It was discovered that the Respondent, between January 2007 and December 2009, had ordered his subordinates, while on PVSC time and using some PVSC resources, to complete a series of handyman tasks at his private residence and at the residence of his friends and relatives. The Respondent was charged on February 1, 2011 and indicted on June 28, 2011. After lengthy criminal proceedings, the Respondent was found guilty of Theft by Unlawful Taking and Official Misconduct. However, on August 29, 2014 the judge granted his motion for a new trial. On June 1, 2016, the Respondent pled guilty to one count of Conspiracy to Commit Official Misconduct, in violation of N.J.S.A. 2C:5-2a(1) and N.J.S.A. 2C:30-2a. On July 26, 2016, a Judgment of Conviction was entered and the Respondent was sentenced to one year of probation, 90 days in Passaic County Jail, permanent forfeiture of his pension and future employment in the public sector, fines and penalties were imposed, and the Respondent was ordered to pay restitution of \$475 to the PVSC.

The OTSC alleges that the conduct underlying the Respondent's conviction demonstrates dishonesty, bad faith, and unworthiness for licensure, in violation of N.J.S.A. 45:15-17e. Furthermore, the OTSC alleges that the Respondent's conviction constitutes dishonest dealing, in violation of N.J.S.A. 45:15-17i.

In addition, the OTSC alleges that as the Respondent was an actively licensed salesperson when this conduct took place, his failure to notify the Commission of the criminal charges against him and of his subsequent indictment within a 30-day period constitutes two violations of N.J.S.A. 45:15-17s.

The Respondent maintained his real estate salesperson license by way of a renewal application for the duration of his criminal proceedings. The OTSC alleges that the Respondent falsely represented that criminal charges had not been filed against him since his last renewal on his 2011 – 2013 real estate salesperson license renewal questionnaire, in violation of N.J.S.A. 45:15-17n.

Lastly, the OTSC alleges that the Respondent failed to provide the Commission with proper documentation of the criminal charges filed in conjunction with his 2013 – 2015 renewal questionnaire, demonstrating unworthiness, in violation of N.J.S.A. 45:15-17e.

The Respondent, through his attorney, Gregory Aprile, Esq., filed a timely Answer on December 21, 2016, wherein he admitted to all factual allegations as set forth in the OTSC. On January 24, 2017, after reviewing the pleadings, the Commission found that there were no material facts in dispute and directed that a hearing be scheduled.

A hearing was conducted on April 4, 2017, at which time the following exhibits were admitted into evidence by the REC:

- S-1 2013 – 2015 Completed Renewal Questionnaire submitted by Anthony Ardis, dated April 23, 2013;
- S-2 Letter from Respondent Anthony Ardis regarding his 2013 – 2015 Renewal Questionnaire, dated May 14, 2013;
- S-3 Judgment of Conviction issued by the Superior Court of New Jersey, Passaic County, in the matter of State of New Jersey v. Anthony Ardis, dated August 17, 2015;
- S-4 Criminal Indictment – State of New Jersey v. Anthony Ardis and Paul Bazela, filed on June 29, 2011; and

TESTIMONY OF THE WITNESSES

Anthony Ardis

The Respondent testified on his own behalf. The Respondent is a resident of Totowa, New Jersey. The Respondent began working for the City of Patterson upon graduation from college in 1977 as a Health Benefits Coordinator. He left public service for a period of 10 years before returning as an aide to Congressman Bill Pascrell. He left the Congressman's office when he became a Commissioner at PVSC and later became the PVSC's Director of Management Services before he was arrested in February 2011.²

The Respondent testified about the circumstances surrounding his 2011 arrest and subsequent criminal charges. He explained that while serving as Director of Management Services at PVSC he knew some of the Sewer Commission employees did work after business hours to earn extra money. Ardis stated that he had reached out to these employees to see if they would be interested in doing some personal handyman work for him after business hours. The employees agreed and he testified that he left a key in his mailbox for them so they would be able to enter his property to complete the agreed upon work after business hours. He stated that the Supervisor of Maintenance, who was also indicted, was responsible for overseeing the

¹ In his opening statement, Regulatory Officer John Rossakis explained that during the 2011 – 2013 license renewal term, a licensee's broker was responsible for completing a renewal questionnaire in order to renew an agent's real estate salesperson license. The questionnaire was submitted by the broker directly to the Commission. Page 1 of S-5 provides a blank copy of the questions answered by the Respondent's broker, Raymond Leopizzi, in 2011. Page 2 is an internal document, prepared by the REC, which indicates the answers that were selected for each salesperson whose license was renewed by Leopizzi Real Estate Agency, including answers selected on behalf of the Respondent.

² The OTSC alleges that the Respondent was first licensed as a real estate salesperson in January 1994. He maintained this licensure during the course of his professional career even though he was not working in the field consistently. This was not discussed during the portion of the Respondent's testimony chronicling his career, but is corroborated by the testimony of Raymond Leopizzi and other documentary evidence submitted.

schedules of these PVSC employees. The Supervisor sent employees to the Respondent's property during work hours to complete the requested tasks using work issued tools and materials provided by the Respondent. The Respondent stated that after this first incident, he requested that any work be done after business hours but his employees kept returning during the day to complete the work that he had requested. This occurred on four separate occasions over a period of three and a half years.

The Respondent discussed the fall-out of the criminal trial that followed his arrest. He has lost his pension and is permanently prohibited from holding any public office or position. He emphasized that the duration of his career had been in public service. He is currently trying to earn a living utilizing his real estate salesperson license, answering phones and attempting to obtain listings. The Respondent also testified that he has two children, one that is 27 and another that is 15. He also stated he would turn 63 years old in the coming weeks.

The Respondent testified that he failed to notify the Commission of both the charges filed against him and of his indictment for many reasons, but that it was not in any way a deliberate attempt to conceal any information from the Commission. He reiterated that the trial was a very public ordeal and the matter was being covered by the press including the media and local papers. He admitted that it had not occurred to him to notify the Commission specifically as he was embroiled in great personal turmoil.

The Respondent further testified about his involvement with Do Good House, an organization where he has served as Vice President for six years. The Respondent testified that he was one of the 15 original founders of the Totowa based non-profit organization which sponsors students from area high schools, from both urban and suburban areas, to receive scholarships for college. Today, Do Good House has 175 members. The Respondent stated that

the organization has given out approximately \$500,000 in scholarships to date and is hosting an upcoming dinner to provide an additional \$46,000 in funding to college-bound students.

Robert E. Corrado

Robert E. Corrado, Esq. (“Corrado”) testified as a character witness for the Respondent. Corrado is an attorney that lives in Totowa, New Jersey. He has been practicing law since 1965. He has owned his firm, Corrado and Corrado, for approximately 20 years and focuses on municipal matters and real estate transactions. Corrado testified that he has known the Respondent for over 30 years as they are both Totowa residents, and that their paths have crossed on numerous occasions, both professionally and personally.

Corrado testified that the Respondent is Corrado’s daughter’s softball coach and a visible member of the Totowa community. Corrado spoke of the Respondent’s work with Do Good House, an organization that the Respondent helped found approximately 15 years ago. Corrado spoke to the Respondent’s reputation as a good citizen of the borough, where he is well respected by Totowa residents.

Corrado also testified that he and the Respondent have completed many commercial and residential transactions together. They recently completed a commercial transaction for a property in Totowa where Corrado stated that the Respondent displayed the utmost professionalism.

Raymond Leopizzi

Raymond Leopizzi (“Leopizzi”) testified as a second character witness for the Respondent. Leopizzi is a real estate broker that lives in Totowa, New Jersey, and has been a broker for 37 years, since 1980. Leopizzi became a licensed real estate salesperson in 1977. Leopizzi has owned Leopizzi Real Estate Agency since 1983, where he employs 30 licensees,

that generally work part-time. Leopizzi testified that he, his wife, and his son are brokers at the agency, and that he has known the Respondent since the 1960's, when they grew up together in Patterson, New Jersey. He further testified that he and Respondent attended the same church, participated in the same clubs, had the same friends, and grew up in the same neighborhood.

Professionally, Leopizzi testified that he has been the Respondent's broker since 1994, and that he and the Respondent have completed approximately 30 to 40 transactions together during the duration of their professional relationship. Leopizzi spoke of how even when the Respondent left the profession to pursue a career in public service, the Respondent maintained his license. Leopizzi went on to note that, even with the knowledge of the Respondent's criminal charges, Leopizzi was not dissuaded from continuing his professional relationship with the Respondent because he is a decent, professional person who "stands out above everyone else in how he conducts his life."

When speaking about their personal relationship, Leopizzi testified that members of the Totowa community hold the Respondent in high regard. He stated that the Respondent is well known as a "great person" and a "family man" who has done a lot to help the community. He went on to reiterate that the Respondent has suffered due to his highly publicized conviction and needs his real estate license to earn a living.

On cross-examination, Leopizzi, as the Respondent's employing broker, admitted that he completed the 2011- 2013 renewal application that is at issue in this matter. Leopizzi testified that, at the time the renewal application was being completed, the status of the Respondent's case was unclear because his conviction had been thrown out and he had been granted a new trial. Leopizzi testified that he and his wife normally review all documentation submitted to the

Commission, and that they must have overlooked this error on the renewal application because he was fully aware of the case at that time.

FINDINGS OF FACT

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

1. Respondent Anthony Ardis is a licensed New Jersey real estate salesperson, who was first licensed in January 1994, and is currently licensed with Trenton Ave. Real Estate, Inc., d/b/a Leopizzi Real Estate Agency, whose office is located at 974 McBride Avenue, Woodland Park, New Jersey 07424.
2. The Respondent was previously employed as Director of Management Services for the PVSC. In addition, he served as Clerk to the PVSC Board of Commissioners and was the PVSC's Chief Ethics Officer. Inherent in the Respondent's duties as a public official were, among other things, to refrain from using or attempting to use his position to secure unwarranted privileges for him or others, to display good faith, honesty and integrity, and to be impervious to corrupting influences.
3. On February 1, 2011, the Respondent was arrested and charged with one count of Conspiracy, a crime in the second degree, in violation of N.J.S.A. 2C:5-2, one count of Official Misconduct, a crime of the second degree, in violation of N.J.S.A. 2C:30-2, one count of Pattern of Official Misconduct, a crime of the second degree, in violation of N.J.S.A. 2C:30-7A and one count of Theft by Unlawful Taking, a crime of the third degree, in violation of N.J.S.A. 2C:20-3.

4. The charges related to allegations that the Respondent was using PVSC employees, on PVSC time, as his “personal handymen” to make various repairs and/or renovations to his personal property and the property of his friends and relatives.
5. The Respondent failed to notify the Commission of the February 1, 2011 charges within 30 days.
6. On June 24, 2011, the Respondent renewed his license for 2011 – 2013 with Trenton Ave. Real Estate Inc. Question #1 of the renewal questionnaire 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 provided a negative response to this question.
7. On June 28, 2011, the Respondent was indicted in the Superior Court of New Jersey on one count of Conspiracy, in violation of N.J.S.A. 2C:5-2, one count of Official Misconduct, in violation of N.J.S.A. 2C:30-2, one count of Pattern of Official Misconduct, in violation of N.J.S.A. 2C:30-7A and one count of Theft by Unlawful Taking, in violation of N.J.S.A. 2C:20-3.
8. The indictment alleges that between January 2007 and December 2009, the Respondent ordered his subordinates, while on PVSC time and using PVSC resources, to remove and replace sheetrock at his private residence; to install wood paneling and a microwave range in the kitchen of the private residence of a relative of the Respondent; and, on two separate occasions, to remove and install air conditioning units at the private residence of his paramour.

9. The Respondent failed to notify the Commission of the June 28, 2011 indictment within 30 days.
10. On April 23, 2013, the Respondent renewed his license for 2013 - 2015 with Trenton Ave. Real Estate Inc. Question #1 of the renewal questionnaire 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 provided an affirmative response to this question.
11. The Renewal Questionnaire reads as follows: "SUPPORTING DOCUMENTATION NEEDED: A certified copy of any indictment, criminal accusation, criminal information and/or criminal complaint against you. A certified copy of any judgment of conviction, evidence of dismissal, municipal court record reflecting the disposition and sentence imposed for each offense and a letter from parole/probation officer regarding current status, if applicable. A written statement explaining each conviction, the circumstances under which it occurred and any social conditions that contributed to your commission of the offense. Additional information may also be required."
12. In response to the 2013 - 2015 renewal questionnaire directive described in ¶11 above, the Respondent supplied a letter stating: "I have entered and maintained a plea of not guilty to all these charges and I am awaiting a trial date." The Respondent failed to include proper supporting documentation of the criminal charges and of his indictment as required by the renewal questionnaire.

13. In 2014, the Respondent was found guilty of Theft by Unlawful Taking and Official Misconduct.
14. On August 29, 2014, the Respondent was granted a new trial.
15. On June 1, 2016, the Respondent entered a guilty plea to the charge of Conspiracy to Commit Official Misconduct, in violation of N.J.S.A. 2C:5-2a(1) and N.J.S.A. 2C:30-2a.
16. On July 26, 2016, a Judgment of Conviction was entered against the Respondent, and the Respondent was sentenced to probation of one year, 90 days in Passaic County Jail, permanent forfeiture of public employment and public office, ordered to pay restitution of \$475 to the Passaic Valley Sewer Commission, and fines and penalties were assessed.

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 in that the conduct underlying his conviction demonstrates dishonesty, bad faith, and unworthiness for licensure.
2. The Respondent violated N.J.S.A. 45:15-17l in that the conduct underlying his conviction constitutes dishonest dealing.
3. The Respondent violated N.J.S.A. 45:15-17s (two counts) in that he failed to notify the Commission of the filing of criminal charges against him and of the indictment within 30 days.
4. The Respondent violated N.J.S.A. 45:15-17n in that he falsely represented that no charges had been filed against him since his last license renewal related to the 2011 - 2013 real estate salesperson license renewal questionnaire.

5. The Respondent violated N.J.S.A. 45:15-17e in that he failed to provide the Commission with proper documentation of the criminal charges filed against him in conjunction with the 2013 - 2015 real estate license renewal questionnaire, which demonstrates unworthiness for licensure.

DETERMINATION

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 Order of Determination. In arriving at the determination in this matter, the Commission took into consideration the testimony of the witnesses, the undisputed documentary evidence admitted during the course of the hearing, and the nature of and circumstances surrounding the Respondent's criminal conviction and behavior related to his license renewals.

The Real Estate Brokers and Salespersons 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 Comm'n, 29 N.J. Super. 178, 181-182 (App. Div. 1954). The Commission is empowered to suspend and revoke the licenses of, and impose fines against, real estate licensees that commit any of the offenses enumerated in N.J.S.A. 45:15-17 or the real estate regulations. Maple Hill Farms, Inc. v. New Jersey Real Estate Comm'n, 67 N.J. Super. 223, 232 (App. Div. 1961); New Jersey Real Estate Comm'n 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 New Jersey Real Estate Comm'n v. Ponsi, *supra* at 532-533. Thus, the Commission has the power to suspend, revoke, or place on probation the license of any licensee

for “any conduct which demonstrates unworthiness, incompetency, bad faith, or dishonesty.”
N.J.S.A. 45:15-17e.

The OTSC alleges that the conduct underlying the Respondent’s criminal conviction is in violation of N.J.S.A. 45:15-17e (conduct demonstrating dishonesty, bad faith, and unworthiness) and N.J.S.A. 45:15-17l (conduct constituting dishonest dealing.) The undisputed facts and evidence demonstrate that the Respondent, while acting as Director of Management Services at PVSC, was charged with using PVSC employees to make various repairs and/or renovations to his personal property and the properties of his friends and relatives. These repairs were made on company time using company resources on four separate occasions over a period of three and a half years. As a result, the Respondent ultimately pled guilty to Conspiracy to Commit Official Misconduct. The Respondent’s abuse of public resources in this matter constitutes dishonesty and bad faith. Furthermore, the Respondent held a number of positions at PVSC during his tenure, including Chief Ethics Officer, Clerk to the Board of Commissioners, and finally Director of Management Services. Inherent in his duties as a public official were, among other things, to refrain from using or attempting to use his position to secure unwarranted privileges for him or others, to display good faith, honesty and integrity and to be impervious to corrupting influences. The Respondent’s use of PVSC employees to make various repairs and/or renovations to his personal property and the properties of his friends and relatives using public resources on public time demonstrates dishonesty, bad faith, and unworthiness for licensure, in violation of N.J.S.A. 45:15-17e and N.J.S.A. 45:15-17l.

The OTSC alleges the Respondent’s conduct is also in violation of N.J.S.A. 45:15-17s (two counts) in that licensees are required to notify the Commission within 30 days of having been: convicted of any crime; indicted; or the filing of any formal criminal charges against the

licensee. As such, the Respondent is charged with failing to notify the Commission of the filing of criminal charges against him (first count) and of his subsequent indictment (second count) within 30 days. As previously stated, the Respondent was charged on February 1, 2011. On June 28, 2011, the Respondent was indicted in the Superior Court of New Jersey on one count of Conspiracy, one count of Official Misconduct, one count of Pattern of Official Misconduct, and one count of Theft by Unlawful Taking. The Respondent failed to notify the Commission within 30 days of both the filing of criminal charges and the related indictment. The Respondent admitted that it did not occur to him to notify the Commission of his charges and indictment as he was not acting as a licensee when these events took place. In addition, the publicity and personal fall out resulting from these criminal charges had created so much personal turmoil that caused him to overlook the Commission's notification requirement. However, these explanations are inadequate. All licensees are responsible for compliance with all relevant statutes and regulations. Thus, the Respondent's failures to notify the Commission constitute two violations of N.J.S.A. 45:15-17s.

In addition, the OTSC alleges that the Respondent's conduct is in violation of N.J.S.A. 45:15-17n in that he procured a real estate license by fraud, misrepresentation or deceit by falsely representing that no charges had been filed against him since his last license renewal on the 2011 - 2013 real estate salesperson license renewal questionnaire. As previously noted, the Respondent admitted that he did not disclose the criminal charges filed against him on his 2011 renewal questionnaire and explained that this oversight was due in part to the personal turmoil he was facing at that time. The Respondent emphasized that his failure to disclose his criminal charges was not a deliberate attempt to conceal information from the Commission. The Respondent testified that his trial was a very public ordeal and the entire matter was being

covered thoroughly by the news media and newspapers. However, these explanations are not adequate. Thus, this misrepresentation constitutes a violation of N.J.S.A. 45:15-17n.

Next, the OTSC alleges, and the Respondent admits, that the Respondent failed to provide the Commission with documentation related to the criminal charges filed against him in conjunction with the 2013–2015 license term renewal. On his 2013 - 2015 real estate renewal questionnaire, the Respondent truthfully disclosed that criminal charges had been filed against him since his last renewal application. When a renewal applicant makes this type of disclosure they are to provide specific supporting documentation³ with their application for review by the Commission. In response to this request for supporting documentation, the Respondent provided a one sentence letter that simply stated: “I have entered and maintained a plea of not guilty to all of these charges and I am awaiting a trial date.” This response is insufficient. As previously discussed, the Commission seeks to protect the public from incompetent, unworthy, and unscrupulous licensees. This necessitates that these types of supporting documents be submitted when an individual holding a real estate salesperson license has been charged or indicted to provide the Commission with the information needed to make renewal determinations. Respondent’s failure to provide such documentation frustrated the Commission’s ability to perform its duties, and demonstrated unworthiness for licensure, in violation of N.J.S.A. 45:15-17e (conduct constituting unworthiness).

The Commission finds that the Respondent has committed the violations alleged in the OTSC, however, a closer examination of the facts presented is necessary. The Respondent did

³ The Renewal Questionnaire reads as follows: “SUPPORTING DOCUMENTATION NEEDED: A certified copy of any indictment, criminal accusation, criminal information and/or criminal complaint against you. A certified copy of any judgment of conviction, evidence of dismissal, municipal court record reflecting the disposition and sentence imposed for each offense and a letter from parole/probation officer regarding current status, if applicable. A written statement explaining each conviction, the circumstances under which it occurred and any social conditions that contributed to your commission of the offense. Additional information may also be required.” See Exhibit S-1.

plead guilty to Conspiracy to Commit Official Misconduct because he used PSVC employees, during business hours, to complete personal tasks on his property and the properties of his friends and relatives while serving as the Director of Management Services at PSVC. However, during his testimony, the Respondent stated that while he did hire these employees to complete personal work for him, he had intended that the work be completed after business hours. After the initial incident, he requested that the employees return only after business hours again, but the employees continued to complete work during the PVSC time, without the Respondent's consent.

In addition, the Respondent had multiple witnesses appear on his behalf at the hearing to testify regarding his character. Corrado and Leopizzi both testified that the Respondent is considered a well-respected member of his community. Furthermore, the Respondent's continued participation in both founding and leading a volunteer organization that donates scholarship funds to college bound students in the area demonstrates the Respondent's moral turpitude.

In weighing the testimony and evidence presented, the Commission finds that the revocation of the Respondent's real estate salespersons' license to run concurrently with the Respondent's criminal probation is the appropriate action to be taken in this matter.

Pursuant to N.J.S.A. 45:15-17, the Commission may impose a fine of not more than \$5,000 for the first violation of the Act, and a fine 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 to evaluate the imposition of fines in administrative proceedings and these factors are applicable to this matter which seeks the imposition of penalties under the Act: (1) the good or bad faith of the respondent; (2) the respondent's ability

to pay; (3) the amount of profits obtained from the illegal activity; (4) any injury to the public; (5) the duration of the illegal activity or conspiracy; (6) the existence of criminal or treble actions; and (7) any past violations. Id. at 137-139. Each of these factors is discussed below.

First, the Respondent's conduct relating to his failure to notify the Commission of his recent criminal charges and formal indictment within 30 days does not demonstrate bad faith. In response to these charges, the Respondent admitted that it did not occur to him to notify the Commission of his charges and indictment as he was not acting as a licensee when these events took place. In addition, the publicity and personal fall out resulting from these criminal charges had created overwhelming personal turmoil, causing him to overlook the Commission's notification requirement. Furthermore, the Respondent noted that his arrest and trial was extremely public and in failing to notify, he was not deliberately trying to conceal any information from the Commission. In addition, while the Respondent failed to provide the Commission with documentation of the criminal charges filed against him in conjunction with his 2013 – 2015 renewal application, he did submit a brief letter maintaining that he was not guilty and that his trial date had not been scheduled yet, which the Respondent stated was due to the fact there was some confusion as to the status of his criminal proceedings when the letter was submitted. The Respondent's brief letter and related testimony indicate that he was not trying to subvert the Commission or hide information. In light of these circumstances, the Respondent was not acting in bad faith when he failed to notify the Commission of his criminal charges and indictment within 30 days or when he failed to provide documentation to the Commission in conjunction with his 2013 license renewal application.

The second factor considers the Respondents ability to pay fines assessed. In the course of the Respondent and Leopizzi's testimony, it became apparent the Respondent is struggling to

earn a living as a real estate agent. Although he has maintained a real estate salesperson license since 1994, the Respondent spent the majority of his professional career as a public servant and appears to only now be establishing his career in real estate. Furthermore, in exchange for his guilty plea, he is prohibited from holding public office going forward. However, a respondent who claims an inability to pay civil penalties must bear the burden of proving their incapacity. Goldman v. Shah, OAL Dkt. No. BKI 11903-05, Initial Decision (04/15/08), Final Decision and Order (09/02/08). The Respondent has not demonstrated an inability to pay fines.

The third factor examines how much money was obtained from the illegal activity. In the case of the Respondent, he obtained services from public employees on public time. As set forth in the Judgment of Conviction, the Respondent was ordered to pay restitution of \$475 to the Passaic Valley Sewer Commission.

The fourth factor relates to the injury to the public. 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 violate their responsibilities and fail to comply with Commission notification requirements and provide insufficient information to the Commission when applying to renew their license. These actions constitute undesirable behavior within the meaning of this Act. 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). This factor weighs in favor of assessing a monetary penalty.

The fifth factor examines the duration of time the activity took place. The Respondent failed to notify the Commission of the criminal charges filed against him and of his indictment in 2011. The Respondent failed to provide the Commission with proper documentation of the criminal charges filed against him in conjunction with his 2013 renewal application.

Sixth, the Respondent has been party to criminal proceedings stemming from the conduct while serving as Director of Management Services at PVSC. Ultimately, the Respondent pled guilty to Conspiracy to Commit Official Misconduct. He was sentenced to serve one year probation, 90 days in jail, and is prohibited from ever holding a public office or position. He was also ordered to pay \$475 in restitution and \$155 in fees and penalties.

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

In light of these factors and penalties previously assessed by the Commission, the Respondent shall pay a fine in the total amount of \$1,500, representing \$500 for each violation of N.J.S.A. 45:15-17s including his failure to timely notify the Commission of the criminal charges filed against him (count one) and again for his indictment (count two), and \$500 for his failure to provide the Commission with documentation in conjunction with the 2013 – 2015 renewal questionnaire. This penalty is consistent with prior Commission decisions. See, e.g., NJREC v. Shayvionne Harris, Dkt. No. BER-15-12, Final Order (02/08/17) (Respondent fined \$500 per violation of N.J.S.A. 45:15-17s for failure to timely notify the Commission of criminal charges and conviction); NJREC v. Patricia Gabriel, Dkt. No. OCE-15-019, Final Order (02/14/17) (Respondent was fined \$500 for failure to timely notify the Commission of criminal charges); and NJREC v. Charles Chichizola, Dkt. No. BER-15-018, Final Order (02/14/17) (Respondent


fined \$500 per violation of N.J.S.A. 45:15-17s for failure to timely notify the Commission of criminal charges and conviction).

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

- I. Respondent Ardis's real estate license is revoked for the time period concurrent with his court ordered criminal probation. During the period of revocation, Respondent Ardis shall not be eligible for any type of real estate license.
- II. Respondent Ardis shall pay a fine in the amount of \$1,500, calculated as \$500 for each of his violations of N.J.S.A. 45:15-17s (two counts) and \$500 for one count of N.J.S.A. 45:15-17e.

SO ORDERED this 28th day of June, 2017.

By: Linda Stefanik, President
Sanjeev Aneja, Commissioner
Kathryn Godby Oram, Commissioner
Denise Illes, Commissioner
Harold Poltrock, Commissioner


Patrick J. Mullen
Director of Banking

AR Ardis REC FO/REC Final Orders/Orders