

**NEW JERSEY REAL ESTATE COMMISSION**

NEW JERSEY REAL ESTATE COMMISSION, ) DOCKET NO.: MON-15-004  
)  
Complainant, )  
v. ) **FINAL ORDER OF**  
) **DETERMINATION**  
STEPHEN BULZIS, formerly licensed New Jersey )  
real estate salesperson, (SP1327014) )  
)  
Respondent. )

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This matter was heard at a hearing 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 7, 2015.

**BEFORE:** Commissioners Linda Stefanik, Eugenia K. Bonilla, Denise Illes, Harold J. Poltrock, Esq., Cindy Marsh-Tichy, and Michael Timoni.

**APPEARANCES:** Marianne Gallina, Regulatory Officer, appeared on behalf of the complainant, the New Jersey Real Estate Commission ("REC"). Respondent was represented by Frank X. DeSevo, Esq.

**STATEMENT OF THE CASE**

The REC initiated this matter on its own motion through service of an Order to Show Cause ("OTSC") dated February 2, 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. The OTSC alleged that on or about April 8, 2014, Respondent Bulzis, a formerly licensed real estate salesperson, attended a broker's open house at a property located at 19 Buttonwood Drive, Shrewsbury, New Jersey ("19 Buttonwood Drive"). Thereafter, Bulzis returned to that property and used his status as a real estate salesperson to obtain the lock-

box code and entered the home. During that visit, Respondent Bulzis removed prescription medication from the home. On or about May 9, 2014, Respondent was arrested and charged with theft. On or about July 17, 2014, Respondent pled guilty to a downgraded charge of disturbing the peace and paid a \$1,000.00 fine plus costs. The OTSC further alleges that this conduct demonstrates unworthiness, bad faith and dishonesty and that he failed to notify the Commission of the filing of criminal charges against him within 30 days.

On or about February 6, 2015, Respondent filed an Answer with the REC. In his answer, Respondent Bulzis admitted to the allegations in the OTSC. However, Respondent requested “a hearing concerning the issue of the severity or any sanction of penalty to be imposed.” The hearing occurred on April 7, 2015.

At the hearing, the following exhibits were admitted into evidence:

- S-1 New Jersey State Police Arrest Notification dated May 9, 2014.
- S-2 Arrest report, Shrewsbury Police Department dated May 9, 2014.
- S-3 Shrewsbury Police Department Investigation Report dated April 18, 2014.
- S-4 Complaint-Summons, State of New Jersey v. Stephen Bulzis, dated May 9, 2014.
- S-5 Certification of Disposition, Shrewsbury Municipal Court, dated July 30, 2014.
- S-6 Statement of Stephen Bulzis to Real Estate Commission Investigator Clark Masi (undated, faxed August 5, 2014).
- S-7 Voluntary statement of Stephen Bulzis to Real Estate Commission Investigator Robert Spillane, dated August 12, 2014.
- R-1 Letter dated January 20, 2015 from Frank X. DeSevo, Esq. with medical bills of Stephen Bulzis attached.

Respondent's attorney objected to the introduction of the arrest report and the police investigation report, Exhibits S-2 and S-3, because they did not correctly list the medication that was taken by Respondent Bulzis.

**TESTIMONY OF THE WITNESS**

Respondent Stephen Bulzis testified on his own behalf. Respondent Bulzis testified that he is 23 years old and had worked for Century 21 for approximately one and a half years. Before then, he stated that he worked at Footlocker.

Respondent Bulzis testified that he began having medical problems when he lived in Florida. He stated that while working out at a gym he heard a "pop" and injured his back. He stated that he had back surgery in March 2013 in New Jersey. Respondent Bulzis testified that the pain in his back subsided after he had the surgery; however, it returned after he was in a car accident. Respondent Bulzis stated that he was prescribed medication by his family doctor and he also has had physical therapy. He added that he goes to the gym to help with the pain.

In describing the allegations against him, Respondent Bulzis further testified he went to an open house at 19 Buttonwood Drive in April 2014 where other realtors were present. He had a client that had seen the house on-line and requested that he get more information regarding one of the upstairs bathrooms and the water heater, so he returned to the property. Respondent Bulzis stated that he contacted the listing agent and left a voice mail message stating that he wanted to visit the property and requested the lock-box code. Respondent Bulzis testified that he returned to the home five or six hours after the initial visit and went to the basement to check the water heater. Respondent Bulzis stated that he did not go with the intent to take medication. Respondent Bulzis further testified that the medication was on the counter in the

bathroom and he took a couple pills. Respondent Bulzis stated that he was in a lot of pain and made a stupid mistake.

Respondent Bulzis further testified that he was thereafter contacted by a police officer and was asked to come down and talk to him. He told the police officer that he took a couple pills, but he did not remove any medication from the home, nor did he take any other medications. Respondent Bulzis stated that the charges were downgraded and he did not notify the Commission because the charges were not criminal.

Respondent Bulzis further testified that he loves the real estate business and was doing very well and had great relationships at Century 21. He was let go in August 2014 after he plead guilty to disturbing the peace. He has been out of the business for about seven or eight months and would like to stay in the business. Respondent Bulzis testified that he went to Weichert Realtors and they wanted to give him a job, but they could not because this matter was hanging over his head.

~~Respondent Bulzis further testified that his back pain is under control; he is currently taking a nerve pill, Advil and goes to the gym. If his pain came back he would go to the doctor and handle the problem appropriately. Respondent Bulzis stated that he knows his behavior was not acceptable.~~

On cross-examination, Respondent Bulzis testified that he went back to the property because his client had seen the property on-line and had additional questions about the property. He called Mr. Walker, the listing agent, and left a message that he had a client that was interested in the property. Respondent Bulzis admitted that he took two or three pills for his back pain while he was in the home. He further testified that he did not take any other

medications that were at the home. Respondent Bulzis stated that after he left the home he returned to the office.

Respondent Bulzis testified regarding his medical treatment for his back problems. Respondent Bulzis stated that he was given an anti-inflammatory medication and a nerve pill. Respondent Bulzis testified that he was only given narcotics after his back surgery and was taking Vicodin for a month or two. Respondent Bulzis further stated that he had received three or four epidural injections before he had his back surgery.

Respondent Bulzis testified that at the time of the incident he did not have any pain medication although he was under the care of his family doctor and was taking a nerve pill. Respondent Bulzis claimed that he does not have a dependency on any medication and has never had substance abuse issues.

Respondent Bulzis further testified that he has been in million dollar homes and never took anything. Respondent Bulzis stated that he knew the pills at 19 Buttonwood Drive were for pain because it was printed on the medication bottle. He also stated that he did ingest the pills.

Upon questioning by the Commission, Respondent Bulzis testified that he was first licensed in July 2013. Respondent Bulzis further stated that he did not report the charges because they were not criminal.

### **FINDINGS OF FACT**

Based upon 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. Stephen Bulzis is a formerly licensed New Jersey real estate salesperson. His license is presently inactive. At all times relevant hereto, Respondent was employed with Schecher

Realty, Inc., d/b/a Century 21 Schecher Realty, licensed New Jersey real estate broker located at 76 Broad Street, Eatontown, NJ 07724; and

2. On or about April 8, 2014, the property located at 19 Buttonwood Drive, Shrewsbury, N.J. was listed for sale by ReMax Paradigm Realty, licensed New Jersey real estate broker; and
3. Respondent attended a broker's open house on or about April 8, 2014 at the above referenced property. Thereafter, Respondent used his status as a real estate salesperson to obtain the lock-box code and gain access to 19 Buttonwood Drive where he removed prescription medication from the home; and
4. Upon discovering the missing medication, the homeowner at 19 Buttonwood Drive filed a complaint with the Shrewsbury police. (See Exhibit S-4). On or about May 9, 2014, Respondent was arrested by the Shrewsbury police and charged with theft. On or about July 17, 2014 Respondent pled guilty to the downgraded charge of disturbing the peace, a municipal ordinance violation. Respondent paid a \$1,000 fine plus costs. (See Exhibit S-5); and
5. Respondent did not notify the New Jersey Real Estate Commission within 30 days of the filing of criminal charges against him, as required by N.J.S.A. 45:15-17s.; and
6. On or about June 5, 2014, the New Jersey Real Estate Commission received an arrest notification from the New Jersey State Police indicating the Respondent had been arrested for theft on May 9, 2014. (See Exhibit S-1). By letter dated June 5, 2014, a Real Estate Commission investigator contacted Respondent and directed him to provide specific additional information regarding the criminal charge within 15 days. Respondent failed to do so; and

7. On or about August 5, 2014, Respondent sent a faxed statement (See Exhibit S-6) in which he admitted that he had taken the prescription medicine from the property in question, but he did not provide the rest of the information that was requested by the Commission.

### **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. Respondent Bulzis violated N.J.S.A. 45:15-17e and N.J.S.A. 45:15-17t because his actions demonstrate bad faith and dishonesty; and
2. Respondent Bulzis violated N.J.S.A. 45:15-17s because he failed to notify the New Jersey Real Estate Commission of the filing of criminal charges against him within 30 days.

### **DETERMINATION**

In arriving at the determination in this matter, the Commission took into consideration the testimony and credibility of the witness and the undisputed documentary evidence admitted during the course of the hearing. The Commission also considered the serious nature and the circumstances surrounding the actions of Respondent Bulzis. Further, in making its determination, the Commission did not consider Exhibits S-2 and S-3, the arrest report and the police investigation report, that listed the medications allegedly taken by Respondent, but did consider the medication that Respondent admitted to taking from the home during his testimony. The Commission also considered Respondent Bulzis' written statement to the REC investigator (See Exhibit S-6) that was received on August 5, 2014 where Respondent admitted taking medication and expressed remorse for his action. Further, the Commission considered

Respondent Bulzis' other written statement to a REC investigator (See Exhibit S-7), dated August 12, 2014, where he states that he "did take medication from the home."

Pursuant to N.J.S.A. 45:15-17e, the Commission may place on probation, suspend or revoke the license of any licensee for "any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty." In addition, the Commission is empowered to prescribe and enforce any and all rules and regulations for the conduct of the real estate brokerage business". N.J.S.A. 45:15-17t.

In this case, Respondent Bulzis used his status as a real estate salesperson to gain access to the 19 Buttonwood Drive property and removed prescription medication that was in the home which did not belong to him. This conduct demonstrates bad faith and dishonesty in violation of N.J.S.A. 45:15-17e and N.J.S.A. 45:15-17t. Respondent's testimony that he used medication for his back pain is no excuse for this conduct.

Pursuant to N.J.S.A. 45:15-17s, the Commission may place on probation, suspend or revoke the license of any licensee for failure to notify the REC within 30 days "of the filing of any criminal charges". Here, Respondent Bulzis failed to report his arrest by the Shrewsbury police to the REC within 30 after he was charged with theft. (See Exhibit S-1). Therefore, Respondent is in violation of N.J.S.A. 45:15-17s because he failed to provide such notification.

New Jersey courts have recognized that the purpose of the New Jersey Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq., ("Act") is 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. 2007) (citing Statement to Assembly Bill 143(1921)), cert. den. 193 N.J. 275 (2007). See also Tobias v. Como/America, Inc., 96 N.J. 286, 290 (1982); Markheim-Chalmers, Inc. v. Masco Corp., 322 N.J. Super. 452, 457 (App.Div.



1999). Pursuant to the Act, the Commission is charged 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). Thus, the Commission is empowered to suspend and revoke the license of, and impose fines upon, brokers and salespersons that violate any of the offenses enumerated in N.J.S.A. 45:15-17 or the real estate regulations. Maple Hill Farms, Inc. v. Div. of New Jersey Real Estate Comm’n, 67 N.J. Super. 223, 232 (App. Div. 1961); Div. of New Jersey Real Estate Comm’n v. Ponsi, 39 N.J. Super. 526, 527 (App. Div. 1956).

Respondent’s actions demonstrate a breach of the public trust. 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 conduct when dealing with the consuming public and with the property of others. The public relies upon honesty and good moral character of the licensee when it entrusts access to their home and belongings to the licensee or enters into a fiduciary relationship with a licensee. Ellsworth Dobbs, Inc., v. Johnson and Johnson, 50 N.J. 528, 553 (1967). Hence, the very nature of the real estate profession requires unequivocal honesty and good moral character of its practitioners. Therefore, given the serious nature of Respondent’s violation, license revocation is the appropriate sanction in this case.

The Commission may impose “a penalty of not more than \$5,000.00 for the first violation, and a penalty of not more than \$10,000.00 for any subsequent violation.” N.J.S.A. 45:15-17. 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, N.J.S.A. 45:15-1, et seq.: (1) The good or bad faith of the respondent; (2) The respondent's ability to pay; (3) Amount of profits obtained from 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. Kimmelman, supra 108 N.J. at 137-139. Analysis of these factors in this matter requires imposition of a fine.

First, the Respondent demonstrated bad faith by taking medication from the home located at 19 Buttonwood Drive while his was a licensed salesperson. Further, he failed to notify the REC of his arrest related to his actions. Second, there is no evidence in the record regarding Respondent's inability to pay a fine. Third, Respondent's profit from his illegal activity can be measured by the value of the prescription medication that he took without permission. Fourth, the public is harmed when an individual in a fiduciary position breaches the public's trust by entering into a home and removing property. In this case, Respondent removed prescription medication that did not belong to him. Such activity by licensees undermines the public's confidence in the real estate industry, and may place those consumers who have dealings with the Respondent at risk. However, in mitigation, Respondent did express remorse for his actions in his written statement to the REC dated August 5<sup>th</sup>, 2014. Fifth, Respondent's illegal activity took place on one occasion. Sixth, Respondent was arrested on May 9, 2014 and charged with theft. On July 17, 2014 Respondent pled guilty to a downgraded charge of disturbing the peace, a municipal ordinance violation, and paid a \$1,000 fine plus costs. Finally, to the Commission's knowledge, there are no prior violations of the real estate rules by Respondent Bulzis.

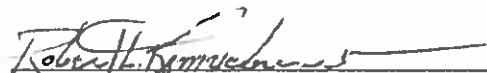
Accordingly and pursuant to N.J.S.A. 45:15-17, the Commission imposes the following sanctions:

- I. Respondent Bulzis' real estate salesperson's license shall be revoked for three years retroactive to August 5, 2014, the date that he provided his statement to the REC.
- II. Respondent Bulzis shall pay a fine in the amount of \$2,500.00 within 30 days from the receipt of this Order.
- III. At the time that Respondent Bulzis re-applies for licensure, he shall be required to requalify by fulfilling any and all license requirements at the time of the application.
- IV. Respondent Bulzis shall pay his fine in full before he is eligible to apply for any license.

SO ORDERED this 12<sup>th</sup> day of September, 2016.

By: Linda Stefanik, President  
Eugenia K. Bonilla, Commissioner  
Harold J. Poltrock, Esq., Commissioner  
Denise Illes, Commissioner  
Cindy Marsh-Tichy, Commissioner  
Michael Timoni, Commissioner

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Robert L. Kinniebrew  
Executive Director  
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