

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION	)	DOCKET NUMBER CAP-18-005
	)	(REC Ref. No. 10006245)
Complainant,	)	
	)	ORDER TO SHOW CAUSE
v.	)	
	)	
Andrew Fasy, licensed New Jersey real estate	)	
broker-salesperson (Ref. No. 8835313)	)	
	)	
Respondent.	)	

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THIS MATTER being commenced by the New Jersey Real Estate Commission (“Commission”) in the Department of Banking and Insurance, State of New Jersey, on its own motion, pursuant to the provisions of N.J.S.A. 45:15-17, 45:15-18, 45:15-19.2 and N.J.A.C. 11:5-1.1 et seq., and it appearing that:

1. Respondent Andrew Fasy (“Fasy”) is an actively licensed New Jersey real estate broker-salesperson, who was first licensed in 1988, and is currently licensed with Long & Foster Real Estate Inc. Fasy is currently employed as branch office supervisor at the Sea Isle City, NJ branch office, which is located at 4914 Landis Avenue, Sea Isle City, New Jersey (“Long & Foster - Sea Isle”); and

2. In or around the month of August, 2017, Long & Foster – Sea Isle sent out an email advertisement to members of the public, advertising thirteen properties located in Sea Isle City, New Jersey as “pocket listings.” Specifically, the advertisement states “These ‘Pocket Listings’ are off-market properties offered for sale exclusively through Long & Foster Sea Isle.” The email also lists the addresses of the thirteen properties being so advertised; and

3. The addresses of the subject properties are listed in Appendix A, which is attached hereto, and made a part hereof. Hereinafter, the subject properties shall be referred to as Property A through M respectively (see Appendix A); and

4. On or about August 7, 2017, Fasy was interviewed by a Commission investigator regarding the thirteen listings described above. During that interview, Fasy stated that the properties advertised as “pocket listings” were exclusive listings with Waiver of Broker Cooperation forms executed by the sellers. The Commission investigator requested that Fasy submit documentation to corroborate his statement; and

5. On or about August 8, 2017, Fasy submitted listing agreements and Waiver of Broker Cooperation forms, purportedly signed by the owners of each property, for Properties A - M to the assigned Commission investigator; and

6. On or about August 15, 2017, a follow-up interview was conducted by a Real Estate Commission investigator with Fasy regarding the authenticity of the listing agreements and Waiver of Broker Cooperation forms. During that interview, Fasy stated to the Commission investigator that upon the initiation of the Commission’s investigation, he determined that a number of documents supporting his marketing of the subject properties as “pocket listings” were missing. Fasy went on to state that he created listing agreements and Waiver of Broker Cooperation forms after the fact, falsified numerous electronic and physical signatures of the sellers, and knowingly submitted said documents to be used in connection with the Commission’s investigation; and

7. As a result of the Commission’s investigation into this matter, it was discovered that:

- a. Properties F, G, H, and M were marketed without listing agreements being obtained from the sellers first; and

- b. Properties B, C, D, E, F, G, H, I, J, L and M were marketed as “pocket listings” without Waiver of Broker Cooperation forms being obtained from the sellers first; and
- c. After the inception of the Commission’s investigation into the instant matter, Fasy signed the names of the sellers on listing agreements for Properties F, G, H and M, and backdated the signatures; and
- d. After the inception of the Commission’s investigation into the instant matter, Fasy signed the names of the sellers on Waiver of Broker Cooperation forms for Properties B, C, E, F and M, and backdated the signatures; and

8. On information and belief, all proper documentation was in place for the listings of Properties A and K; and

9. On or about August 15, 2017, Fasy submitted a written statement to the Commission, wherein he admitted to creating documentation to support the marketing of the subject properties as “pocket listings” as described above. Specifically, Fasy’s written statement includes: “[a]fter being contacted by the...Real Estate Commission on August 14<sup>th</sup>, I went about creating documentation to support our actions.”; and

10. Respondent Fasy’s conduct is in violation of N.J.A.C. 11:6.4(f)(4), (11 counts) in that Fasy failed to obtain Waiver of Broker Cooperation forms prior to marketing exclusive sale listings to the public for Properties B, C, D, E, F, G, H, I, J, L and M; and

11. Respondent Andrew Fasy’s conduct is in violation of N.J.S.A. 45:15-17(a), in that Fasy made a substantial misrepresentation by representing to a Commission investigator that Long

& Foster – Sea Isle had Waiver of Broker Cooperation forms signed by the sellers for each of the properties advertised as “pocket listings”; and

12. Respondent Andrew Fasy’s conduct is in violation of N.J.S.A. 45:15-17(c), in that Fasy pursued a flagrant and continued course of misrepresentation by generating documentation to support the marketing of the subject properties after the fact, as described above; signing the names of the sellers on said documents; and then knowingly submitting them to a Commission investigator to be used in connection with a Commission investigation, while representing that the signatures were the genuine signatures of the sellers; and

13. Respondent Fasy’s conduct is in violation of N.J.S.A. 45:15-17(l), in that Fasy’s conduct, as described above, constitutes dishonest dealing; and

14. Respondent Andrew Fasy’s conduct is in violation of N.J.S.A. 45:15-17(e), (six counts), in that Fasy’s conduct as described above demonstrates incompetency and unworthiness. Specifically,

- a. (five counts) by marketing Properties B, C, E, F and M as “pocket listings” without the appropriate documentation, as described above, Respondent Fasy engaged in conduct which demonstrates incompetency; and
- b. (one count) by failing to fully cooperate in the Commission’s investigation into the instant matter, as described above, Respondent Fasy engaged in conduct which demonstrates unworthiness for licensure.

And for good cause shown,

IT IS on this 26<sup>th</sup> day of February, 2018

ORDERED that Respondent Andrew Fasy shall show cause why his real estate license should not be suspended or revoked and/or why fines or other sanctions should not be imposed

pursuant to N.J.S.A. 45:15-17 and N.J.A.C. 11:5-1.1. Respondent shall file a written Answer to the charges in this Order to Show Cause as required by N.J.A.C. 11:5-11.2 within twenty (20) days of the service of this Order. As required by N.J.A.C. 11:5-11.2, Respondent's written Answer must include specific admissions or denials of all allegations in this Order to Show Cause, state the factual basis of each and every factual allegation denied, and assert any defenses that Respondent intends to present in the event that this matter is deemed a contested case and a plenary hearing is held; and

IT IS FURTHER ORDERED that failure to comply with all of the requirements of N.J.A.C. 11:5-11.2 may result in a determination that there are no material facts or issues of law in dispute and any presentation made to the Commission will be limited to the issue of the severity of any sanction or penalty to be imposed; and

IT IS FURTHER ORDERED that the Commission will review this Order to Show Cause and Answer(s) filed, if any, at a meeting scheduled on or after the 10<sup>th</sup> day of April, 2018 at 9:30 a.m. to determine whether there is a material fact or issue of law contested. No appearance is required at that time; and

IT IS FURTHER ORDERED that if the Commission determines that there is a material fact or issue of law contested, a hearing will be scheduled for a future date; and

IT IS FURTHER ORDERED that if the Commission determines that there is no material fact or issue of law contested, a hearing shall be scheduled at which the Respondent will be limited to presenting witnesses and documentary evidence regarding the issue of the severity of any sanction or penalty to be imposed; and

IT IS FURTHER ORDERED that a copy of this Order be served upon the Respondent as provided in N.J.S.A. 45:15-18, which service may be accomplished by serving a copy of this Order

on the Respondent personally, or by delivering a copy thereof to her last known business address via certified mail.



Patrick J. Mullen  
Director of Banking  
New Jersey Department of Banking and Insurance  
New Jersey Real Estate Commission

## **APPENDIX A**

- Property A. 301 39<sup>th</sup> Street North, Sea Isle City, NJ
- Property B. 6610 Central Ave, 2<sup>nd</sup> Floor, Sea Isle City, NJ
- Property C. 3305 Landis Avenue North, Sea Isle City, NJ
- Property D. 4911 Landis Avenue South, Sea Isle City, NJ
- Property E. 5409 Landis Avenue North, Sea Isle City, NJ
- Property F. 237 54<sup>th</sup> Street West, Sea Isle City, NJ
- Property G. 122 58<sup>th</sup> Street West, Sea Isle City, NJ
- Property H. 85 85<sup>th</sup> Street, Unit 3, Sea Isle City, NJ
- Property I. 7708 Pleasure Avenue North, Sea Isle City, NJ
- Property J. 25 73<sup>rd</sup> Street East, Sea Isle City, NJ
- Property K. 245 58<sup>th</sup> Street, Sea Isle City, NJ
- Property L. 5605 Pleasure Avenue North, Sea Isle City, NJ
- Property M. 34 81<sup>st</sup> Street East & West, Sea Isle City, NJ