

NEW JERSEY REAL ESTATE COMMISSION

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| NEW JERSEY REAL ESTATE COMMISSION, |) | DOCKET NUMBER MID-19-007 |
| |) | |
| Complainant, |) | ORDER TO SHOW CAUSE |
| |) | (REC Ref. No. 10006713) |
| v. |) | |
| |) | |
| LAWRENCE LaBIRT, a licensed New Jersey |) | |
| real estate salesperson, (SP0340483) |) | |
| |) | |
| Respondent. |) | |
| |) | |

THIS MATTER being commenced by the New Jersey Real Estate 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, and N.J.A.C. 11:5-1.1 et seq., and it appearing that:

1. Respondent Lawrence LaBirt is a licensed real estate salesperson, currently licensed with Home Access Realty, whose office is located at 1254 Highway 27, North Brunswick, New Jersey 08902. He has been licensed there since January 11, 2018. He was licensed with ReMax Diamond Realtors, whose office is located at 3430 Highway 27, Kendall Park, New Jersey from May 23, 2003 through November 21, 2017; and

2. Respondent was the listing agent for the premises located at 42 Prospect Street, East Orange, N.J. which was owned by Keirstin Austin from December 3, 2015 through December 30, 2016. The listing agreement did not contain a price. The property was a “short sale”; and

3. During the term of the listing there was an offer that did not result in a contract of sale. The listing expired on or about December 30, 2016 and was not renewed. Upon information and belief, in March 2017 Respondent moved into the property without the authorization of the owner. He gained entry to the property with the key that was in the lockbox which was on the property. While he resided at the property, he paid the homeowner association

dues in the amount of \$236 per month. Respondent resided in the property until November 2017; and

4. When questioned by a Real Estate Commission investigator, Respondent stated that he was going through a divorce and had no place to live. He claimed that he had verbal authorization from the owner, but that could not be corroborated. In fact, it was the seller who complained to Respondent's broker, Joseph Bruno, when she discovered on or about November 4, 2017 that her house was being occupied; and

5. The seller demanded that Respondent pay rent for the period that he occupied the property. On or about November 17, 2017, Respondent paid \$2,000 to the owner; and

6. Upon information and belief, the property went into foreclosure and was sold in February 2018; and

7. The complaint in this matter was filed with the New Jersey Real Estate Commission by Respondent's broker, Joseph Bruno who reported that he had been contacted by Keirstin Austin, the property owner. The Real Estate Commission investigator's attempts to contact the property owner were not successful; and

8. Respondent demonstrated untrustworthiness, incompetency, bad faith and dishonesty, in violation of N.J.S.A. 45:15-17(e) when he moved into the premises that he had listed for sale by using a lockbox key, without a lease or other authorization of the owner; and

9. Respondent is in violation of N.J.A.C. 11:5-6.4(a) (2 counts) in that

- a. he put his own interests above that of his client, thereby violating his fiduciary duty when he moved into the premises without a lease or other authorization; and
- b. he prepared a listing agreement that had no price stated and had the seller sign same; and

10. Respondent demonstrated incompetency in violation of N.J.S.A. 45:15-17(e) by allowing the seller of the Prospect Street property to sign a listing agreement without a price stated thereon;

And for good cause shown,

IT IS ON THIS 4th DAY OF FEBRUARY 2019

ORDERED that Respondent shall show cause why Respondent's 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 Answers must include specific admissions or denials of all allegations in the Order to Show Cause, state the factual basis of each and every factual allegation denied and assert any defenses that Respondent intends to present if this matter is deemed a contested case and a plenary hearing is held; and

IT IS FURTHER ORDERED that failure to comply with all 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 New Jersey Real Estate Commission will review this Order to Show Cause and Answer filed, if any, at a meeting scheduled on or after the 26th day of MARCH 2019 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 hereof to his last known business addresses via certified mail.



Richard Mumford
Acting Director
Division of Banking