

NEW JERSEY REAL ESTATE COMMISSION

NEW JERSEY REAL ESTATE COMMISSION,)	OAL DOCKET NO. BKI 16046-18
)	AGENCY DOCKET NO.: HUD-17-022
Petitioner,)	
)	
v.)	
)	FINAL ORDER OF
ERIK BRACHMAN,)	DETERMINATION
)	
Respondent.)	

THIS MATTER was heard at a regular hearing by the New Jersey Real Estate Commission (“Commission”) by video conference in accordance with P.L. 2020, c. 11 on March 8, 2022.

BEFORE: Commissioners Eugenia K. Bonilla, Christina Banasiak, Darlene Bandazian, William J. Hanley, and Denise M. Illes.

This matter comes before the Commission pursuant to the authority of N.J.S.A. 52:14B-1 to -31, and the Real Estate Brokers and Salesperson Act, N.J.S.A. 45:15-1 to -42 (“Real Estate Act”), N.J.A.C. 11:5-1.1 to -12.18, and all powers expressed or implied therein, for the purpose of reviewing the Initial Decision of Administrative Law Judge Hon. Dean J. Buono, (“ALJ”). In the Initial Decision, the ALJ reviewed the terms of a fully executed Settlement Agreement, which he incorporated in the Initial Decision. Initial Decision at 2.

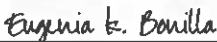
The ALJ found that the parties voluntary agreed to the settlement and the settlement fully disposed of all the issues in controversy and was consistent with the law. Ibid. The ALJ ordered the parties to comply with the settlement terms. Ibid.

Having carefully reviewed the Initial Decision and the settlement agreement, I hereby ADOPT the ALJ's Initial Decision as my Final Decision, except as modified below.

The reference to the "Commissioner of the Department of Banking and Insurance" is modified to read the "New Jersey Real Estate Commission" to reflect the proper reviewing authority.

SO ORDERED this 1st day of April, 2022.

By: Eugenia K. Bonilla, President
Christina Banasiak, Commissioner
Darlene Bandazian, Commissioner
William J. Hanley, Commissioner
Denise M. Illes, Commissioner

DocuSigned by:

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Eugenia K. Bonilla, President
New Jersey Real Estate Commission

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Final Orders – REC/ jd Brachman FO



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. BKI 16046-18

AGENCY DKT. NO. HUD-17-022

NEW JERSEY REAL ESTATE

COMMISSION,

Petitioner,

v.

ERIK BRACHMAN,

Respondent.

William B. Puskas, Deputy Attorney General, for petitioner (Andrew J. Bruck,
Acting Attorney General of New Jersey, attorney)

Andrew Bayer, Esq., for respondent (Pashman, Stein, Walder, Hayden, PC,
attorneys)

Record Closed: January 24, 2022

Decided: January 26, 2022

BEFORE **DEAN J. BUONO**, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) on November 5, 2018, for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On January 24, 2022, the parties filed a fully executed Settlement Agreement in this matter. The Agreement is attached and fully incorporated herein.

I have reviewed the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

Therefore, I **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with **COMMISSIONER OF THE DEPARTMENT OF BANKING AND INSURANCE** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF BANKING AND INSURANCE**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Banking and Insurance does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



January 26, 2022 _____
DATE

DEAN J. BUONO, ALJ

Date Received at Agency:

1/27/2022 _____

Date Mailed to Parties:

1/28/2022 _____

mph

NEW JERSEY REAL ESTATE)	OAL DOCKET NO. BKI-01060-2018
COMMISSION,)	AGENCY DKT. NO. HUD-17-022
)	
Petitioner,)	
)	
v.)	STIPULATION OF SETTLEMENT
)	(FOR INCORPORATION IN
)	INITIAL DECISION)
ERIK BRACHMAN,)	
)	
Respondent.)	

THIS MATTER ARISING from an October 31, 2017 Order to Show Cause issued by the petitioner, the New Jersey Real Estate Commission (the "Commission") in the Department of Banking and Insurance, State of New Jersey, under Docket No. HUD-17-022, seeking to revoke the real estate license of respondent Erik Brachman ("Brachman") and to impose monetary penalties for his alleged violations of the New Jersey Real Estate Licensing Act, N.J.S.A. 45:15-1 to -42, as more particularly set forth in the Order to Show Cause; and

WHEREAS, on November 5, 2018, the matter was filed with the Office of Administrative Law ("OAL") as a contested case for hearing and initial decision; and

WHEREAS, the Commission filed a motion for summary decision on September 3, 2019, and Brachman filed a cross-motion for summary decision on September 6, 2019; and

WHEREAS, on November 13, 2019, the Honorable Dean J. Buono, ALJ, issued an Order Granting Partially [sic] Summary Decision, in which ALJ Buono made certain findings of fact and ordered that (a) the Commission be denied summary decision as to Brachman's alleged violation of N.J.S.A. 45:15-17(e) in connection with the sale of certain real estate located in Harrison, New Jersey; (b) the Commission be granted summary decision as to Brachman's admitted violation of N.J.A.C. 11:5-3.9(c) in failing to timely file an Office Closing Affidavit; (c) the Commission be denied summary decision as to any statutory civil penalties and remedial action, as a hearing is required to establish appropriate penalties, if any; and (d) Brachman's cross-motion for summary decision be denied; all as more particularly set forth in the Order; and

WHEREAS, a remote hearing in this matter was scheduled for June 21, 2021 before ALJ Buono; and

WHEREAS, prior to the June 21, 2021 hearing, the parties settled the remaining outstanding issues in this matter, as more particularly set forth below; and

WHEREAS, at the June 21, 2021 hearing, the parties placed the terms of the proposed settlement on the record before ALJ Buono and requested that the settlement terms be incorporated into his Initial Decision; and

WHEREAS, ALJ Buono took sworn testimony from Brachman to establish to ALJ Buono's satisfaction that Brachman, having had the assistance of and in consultation of counsel, was knowingly and voluntarily entering into the proposed settlement; and

WHEREAS, ALJ Buono took no testimony and made no finding as to the merits of the settlement; and

IT APPEARING THAT, the Commission and Brachman, in order to avoid the costs and uncertainty of further litigation and to resolve the matter with finality, hereby agree to this Stipulation of Settlement, fully disposing of all the issues in controversy in this matter with prejudice, subject to the approval of the Commission at a regular meeting, as soon as the Commission's agenda allows, of the Initial Decision incorporating this Stipulation of Settlement, and good cause appearing;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The November 13, 2019 Order Granting Partially Summary Decision is incorporated in full as a part of this Stipulation of Settlement as if set forth at length herein.

2. Brachman admits to having violated N.J.A.C. 11:5-6.4(a) (Obligations of licensees to public and to each other).

3. Brachman admits to having violated N.J.A.C. 11:5-3.9(c) (failure to submit Office Closing Affidavit within 30 business days from the date of closing).

4. The Commission dismisses with prejudice its claim against Brachman of an alleged violation of N.J.S.A. 45:15-17(e), as more particularly described in Paragraph 10 of the October 31, 2017 Order to Show Cause.

5. Brachman shall pay a total monetary penalty of \$5,500 with respect to the violations, allocated as follows:

(a) \$4,000 – violation of N.J.A.C. 11:5-6.4(a);

(b) \$1,500 – violation of N.J.A.C. 11:5-3.9(c).

6. Brachman and the Commission hereby request that this Stipulation of Settlement be incorporated into an Initial Decision by the OAL and submitted to the Commission for approval as a Final Decision at a regular meeting of the Commission.

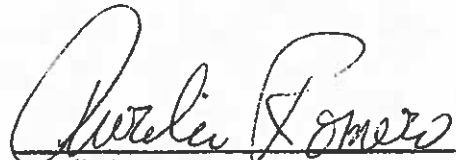
7. Upon the issuance of the Initial Decision by the OAL and approval thereof as a Final Decision by the Commission, all as contemplated in Paragraph 6 above, this Stipulation of Settlement shall constitute a full and final disposition of the allegations set forth in the October 31, 2017 Order to Show Cause.

IT IS FURTHER AGREED, that by signing below, Brachman confirms that;


a. He is not under any disability, mental or physical, nor under the influence of any medication, intoxicant or other substance that would impair his ability to knowingly and voluntarily execute this Stipulation of Settlement; and

b. He has received the advice of legal counsel on this matter and on the terms of this Stipulation of Settlement; he is entering into this Stipulation of Settlement knowingly and voluntarily; he has not been subjected to any coercion or threats regarding the execution of this Stipulation of Settlement and that other than the terms set forth above, no promises, representations, or inducements have been made to him to secure his acceptance of the provisions of this Stipulation of Settlement.

Dated: 01/20/22, 2021



Aurelio Romero
Executive Director
Real Estate Commission
Petitioner



Erik Brachman
Respondent

Dated: 12/30, 2021

Pashman Stein Walder Hayden P.C.
Attorneys for Respondent

By: Andrew Bayer
Andrew Bayer, Esq.

Dated: 1/18/1, 2022