

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

JANUARY 19, 2010

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, January 19, 2010 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting was called to order at 8:45 a.m. by Chairman Nancy LeRoy

Present: Commissioners Nancy LeRoy, Pauline Ikawa, Daniel Jones, and David Dunn.

I. APPOINTMENTS

8:45 a.m. Equivalency Appointments

BILL CANTLIN

After review and discussion, the Commission, on motion by Commissioner Jones, seconded by Commissioner Ikawa decided to approve Mr. Cantlin's real estate experience as sufficient experience pursuant to RSA 331-A:10 (c) and (g).

GEORGE FINTONIS

After review and discussion, the Commission, on motion by Commissioner Jones, seconded by Dunn decided to approve Mr. Fintonis' real estate experience as sufficient experience pursuant to RSA 331-A:10 (c) and (g).

COMMISSIONER THERRIEN ARRIVED AT THE MEETING AT 8:58 A.M.

9:00 a.m. JOANNE L. BARNES appeared before the Commission to discuss a previous legal incident prior to applying for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Therrien, decided to allow Ms. Barnes to apply for an original salesperson's license, contingent upon receipt of a letter from her principal broker notifying the Commission that he/she is aware of Ms. Barnes' previous legal incident.

9:23 a.m. STEPHEN K. BRUNELLE appeared before the Commission to discuss a previous legal incident prior to applying for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Jones, decided to allow Mr. Brunelle to apply for an original salesperson's license, contingent upon receipt of a letter from his principal broker notifying the Commission that he/she is aware of Mr. Brunelle's previous legal incident.

9:27 a.m. ERIC GIROUX appeared before the Commission to request the reinstatement of his lapsed salesperson's license for good cause pursuant to RSA 331-A:18, II. After review and discussion, the Commission, on motion by Commissioner Jones, seconded by Commissioner Dunn, decided to allow the reinstatement of his lapsed salesperson's license for good cause shown, pursuant to RSA 331-A:18, II. Commissioner Ikawa was opposed to the decision.

II. **DISCUSSION**

ARTHUR GARY submitted a request for declaratory ruling on the following:

The company practices designated agency. The company's appointing agent is not the principal broker and the principal broker lists and sells real estate. If the principal broker is responsible for keeping and maintaining the brokerage records and responsible for providing them to the Real Estate Commission upon request, is the principal broker allowed to collect the documents as the transaction progresses in order to ensure that the principal broker has the documents in a timely manner? After review and discussion, the Commission stated that if the principal broker is actively practicing brokerage activity and practices designated agency within the firm, the principal broker must keep and maintain the brokerage records in a manner that does not expose the principal broker to confidential information for any client at the brokerage firm until the transaction has been finalized.

JONATHAN RUFFUS appeared before the Commission at the September 16, 2008 meeting to discuss a disciplinary action issued to him by the Maine Board of Real Estate Appraisers prior to applying for an original salesperson's license. The Commission tabled its decision until the NH Real Estate Appraisal Board reviewed the disciplinary action issued by the State of Maine and provide its findings to the Commission. The Commission received notice in April 2009 by the NH Real Estate Appraisal Board of Mr. Ruffus' revocation of his New Hampshire appraisal license. After a number of unsuccessful attempts to contact Mr. Ruffus to appear before the Commission to address the matter tabled at the September 2008 meeting, the Commission reviewed and discussed, and on motion by Commissioner Jones, seconded by Commissioner Ikawa, the Commission decided to deny Mr. Ruffus to apply for an original salesperson license.

JOHN DORAN submitted a request for declaratory ruling regarding a Cooperative Brokerage Agreement between a New Hampshire broker and a Non-New Hampshire broker and the responsibilities of the NH broker. After review and discussion, the Commission tabled its determination until the February 16, 2010 meeting.

III. **HEARING 9:42 AM**

FILE NO. 2007-021 BILL & PATRICIA TOLIOS VS EDWARD CARROLL, MICHAEL D. KEELER AND MICHAEL F. SCANLON

The following persons were present at the hearing:

Commission: Commissioners David Dunn, James Therrien and Daniel Jones

Evaluator: Commissioner Ikawa evaluated the above matter and did not take part in any of the discussions of this matter. Commissioner LeRoy was a recused member and did not take part in any of the discussions of this matter.

Complainants: Bill & Patricia Tolios

Attorney: Pro Se

Witnesses: None

Respondents: Edward Carroll
Michael D. Keeler
Michael F. Scanlon

Attorney: Peter G. Callaghan

Witnesses: Richard Wiggins

IV. **HEARING 11:50 AM**

FILE NO. 2008-017 KEITH & RUTHELLEN KELLOGG & NEW HAMPSHIRE REAL ESTATE
COMMISSION VS MARK G. LANGEVIN

The following persons were present at the hearing:

Commission: Commissioners David Dunn, Nancy LeRoy, Pauline Ikawa and James Therrien

Evaluator: Commissioner Jones evaluated the above matter and did not take part in any of the discussions of this matter.

Complainant: Keith & Ruthellen Kellogg
&
Investigator Ann Flanagan on behalf of the NH Real Estate Commission

Attorney: Pro Se

Witnesses: None

Respondent: Mark G. Langevin

Attorney: Pro Se

Witnesses: None

V. **OTHER BUSINESS**

1. The Commission unanimously approved the following date for the February meeting:
February 16, 2010 at 8:30 a.m.

2. **ORDERS**

The following Order was approved by the Commission and is attached to the Minutes of this meeting:

FILE NO. 2003-09-01 NEW HAMPSHIRE REAL ESTATE COMMISSION VS MICHAEL J. PAGLIARULO

VI. **APPOINTMENTS CONTINUED**

2:30 p.m. Equivalency Appointment
PAUL SCHAEFER, JR.

After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Therrien decided to deny Mr. Schaefer's real estate experience as sufficient experience pursuant to RSA 331-A:10 (c) and (g). On a motion by Commissioner Jones, seconded by Commissioner Therrien, the Commission directed Ann Flanagan to investigate Christy Silver, Affordable Property Management, LLC, Complete Property Management, LLC, and Paul Schaefer Jr.

VII. **APPOINTMENT OF COMMISSION CHAIRMAN AND CLERK**

Commission Clerk – On motion by Commissioner Therrien, seconded by Commissioner Jones, the Commission appointed Commissioner Ikawa as the Commission Clerk.

Commission Chairman – On motion by Commissioner Therrien, seconded by Commissioner Jones, the Commission appointed Commissioner LeRoy as the Commission Chairman.

VIII. COMMISSIONER JONES DEPARTED THE MEETING AT 3:10 PM

IX. **ADJOURNMENT**

On a motion by Commissioner Therrien, seconded by Commissioner Ikawa, Chairman Nancy LeRoy adjourned the meeting at 4:20 p.m.

Respectfully submitted,

Pauline A. Ikawa

Pauline A. Ikawa
Clerk

NEW HAMPSHIRE REAL ESTATE COMMISSION

V.

MICHAEL J. PAGLIARULO

ORDER

FILE NO. 2003-09-01

This matter comes before the Real Estate Commission on the complaint of its Investigator, Ann Flanagan, who alleges violations of NH RSA 331-A:26, III, XXIX, XXXVI, by Michael J. Pagliarulo. The Real Estate Commission after notice and hearing in the above captioned matter makes the following findings of fact:

1. Michael J. Pagliarulo (hereinafter referred to as Respondent) was licensed as a real estate salesperson on 12/27/93, and was so licensed at the time of the alleged violations.
2. Respondent and his former broker notified the Commission that Respondent was convicted in Belknap Superior Court on July 23, 2003 for crimes of sexual offenses involving minor children, Docket #02-S-141, 02-S-142, 02-S-043, 02-S-044, 02-S-145, 02-S-146, and 02-S-147.
3. The New Hampshire Department of Corrections notified the New Hampshire Real Estate Commission that Respondent was released from prison on July 15, 2009.
4. Respondent is required to register as a criminal offender and he is posted on the New Hampshire State Police registration of criminal offender's website.

5. Respondent did not renew his real estate license while he was in prison, and his license expired on December 27, 2003 and lapsed on June 27, 2004.
6. Respondent testified that he would like to return to the real estate business if the Commission would permit him to obtain a license.
7. Respondent testified that he does not dispute the charges presented against him, but if reinstated he would prove himself to be a man who is changed.
8. Respondent submitted certificates for completion of a drug and alcohol rehabilitation program and the sex offender treatment program offered at the state prison, as well as statements from his case manager, counselors, and parole officer indicating his participation in activities to help reduce his odds of re-offending.
9. Respondent testified that he would be willing to limit his real estate practice to commercial and industrial properties and limit or eliminate involvement in residential real estate in order to minimize any contact with children.

Based on the foregoing findings of fact, the Commission hereby issues the following rulings of law:

Respondent was convicted in Belknap Superior Court on July 23, 2003 for crimes of sexual offenses involving minor children. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, III.

Respondent's conduct of sexually assaulting minor children was unlawful, dishonorable, and unethical. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, XXIX.

Respondent's conduct of sexually assaulting minor children was untrustworthy and demonstrates incompetency to act as a real estate licensee. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, XXXVI.

In view of the foregoing rulings of law, the Real Estate Commission hereby orders that Respondent's real estate license be permanently revoked in order to protect the public pursuant to NH RSA 331-A:1 due to Respondent's demonstrated untrustworthiness and incompetency to act as a real estate licensee.

Under the provisions of RSA 331-A:28, III, this disciplinary action is subject to appeal in the Superior Court. The Respondent has thirty (30) days from the date of this Order in which to file an appeal. Such an appeal will suspend the Commission's disciplinary action pending resolution of the appeal. If this decision is not appealed within thirty (30) days, this Order will become final.

Commissioner Pauline Ikawa evaluated this case and did not take part in the hearing or decision.

David C. Dunn

David C. Dunn, Presiding Officer

1/19/10
DATE

Nancy G. LeRoy

Nancy G. LeRoy, Commissioner

1/19/10
DATE

James R. Therrien

James R. Therrien, Commissioner

01/19/2010
DATE

Daniel S. Jones

Daniel S. Jones, Commissioner

01/19/2010
DATE