

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

JUNE 20, 2006

- I. A meeting of the New Hampshire Real Estate Commission was held on Tuesday, June 20, 2006 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 8:35 a.m. by Chairman Arthur Slattery

Present: Commissioners Arthur Slattery, Nancy LeRoy, Barbara Heath, Executive Director Beth Emmons, and Investigator Ann Flanagan.

II. **APPOINTMENTS**

8:35 a.m. CHRISTOPHER J. LUNNY, SR. appeared before the Commission to discuss a previous legal incident prior to applying for a salesperson's license. After review and discussion, the Commission, on motion by Commissioner LeRoy, seconded by Commissioner Heath, decided to allow Mr. Lunny to apply for his original salesperson's license.

8:45 a.m. MICHAEL ROCHELEAU appeared before the Commission to discuss a pre-licensing course he submitted for Commission accreditation. Fran West, the Commission's Education Program Assistant explained to the Commission that when she was reviewing the pre-licensing course information submitted by Mr. Rocheleau, she recognized the course outline, class format, chapter layouts, NH law summaries, student handouts and course policies and procedures to be Charline Mason's copyrighted material that had been altered slightly in the sentence wording and structure.

Mr. Rocheleau admitted that he had modeled his course after Ms. Mason's course and he had tried to follow her outline. The Commission also had a concern with the Dearborn Company's copyrighted material that Mr. Rocheleau submitted to the Commission for accreditation as a continuing education course without crediting Dearborn for the material. Ms. West explained that after contacting Mr. Rocheleau several times about his proposed course, he admitted that it was a Dearborn course. Ms. West had also been in contact with the Dearborn Company about this issue, but they ultimately decided not to take any action against Mr. Rocheleau. The Commission decided not to pursue the issue with the Dearborn material, since the company did not want to pursue the issue. After review and discussion, and on motion by Commissioner Heath, seconded by Commissioner LeRoy, the Commission denied Mr. Rocheleau accreditation to teach the pre-licensing course, but decided to allow Mr. Rocheleau to appear before the Commission with a pre-licensing course that is his original work, the Commission emphasized that there was no guarantee that he would be approved.

8:55 a.m. JEFFREY C. STARRATT appeared before the Commission to discuss a previous legal incident prior to applying for a salesperson's license. After review and discussion, the Commission, on motion by Commissioner LeRoy, seconded by Commissioner Heath, decided to allow Mr. Starratt to apply for his original salesperson's license, contingent upon receiving a letter of notification from his employing broker.

10:10 a.m. ALBERT HILL appeared before the Commission to present further documentation that was requested by the Commission at a previous meeting regarding Mr. Hill's previous legal incident. Charles Rheinhardt, the principal broker of Rheiner Realty, LLC appeared with Mr. Hill to explain that if the Commission grants Mr. Hill a license, he will be his principal broker and that he will ensure that he has the proper training and supervision. After review and discussion, and based on the documentation presented and the information provided by Mr. Rheinhardt, the Commission, on motion by Commissioner Heath, seconded by Commissioner LeRoy, decided to allow Mr. Hill to apply for his salesperson's license.

10:20 a.m. STEVEN LABRANCHE appeared before the Commission to discuss a previous legal incident prior to applying for a salesperson's license. After review and discussion, the Commission decided to table the matter and have Mr. LaBranche re-appear before the Commission with a principal broker who will be willing to employ Mr. Labranche, submit letters of recommendation and a letter from his probation officer. The Commission instructed Mr. Labranche to contact the Commission to schedule an appointment at a future meeting.

10:35 COLIN P. LINDSEY of Noble Trust Company appeared before the Commission to discuss a continuing education course which was denied re-accreditation, based on the content of the outline submitted. After review and discussion, the Commission decided to re-accredit the course based on Mr. Lindsey's explanation of the course content.

COMMISSIONER IKAWA WAS PRESENT AND VOTING AT THE MEETING AT 10:45 AM.

III. DISCUSSION

RECIPROCITY – the Commission discussed the current requirements of New Hampshire under the reciprocity agreement with Vermont and Vermont's educational and experience requirements mandated for New Hampshire licensees obtaining a Vermont license through reciprocity. Currently New Hampshire does not require any of the educational or experience requirements under the qualifications for licensure of Vermont licensees applying for a license through reciprocity. After review and discussion of Vermont's requirements, the Commission tabled its decision as to whether the Commission will require Vermont reciprocal applicants to complete the educational and experience requirements of New Hampshire. The Commission requested the Executive Director to obtain additional information on Vermont's experience requirements.

DANE HAHN submitted a request for the Commission's interpretation of RSA 331-A:4, I regarding rebates permitted specifically whether the agent may pay rebates out of their commission directly or must it be paid from the principal broker. After review and discussion, the Commission stated that the funds need to flow through the principal broker. Mr. Hahn to be so notified.

COMMISSION EXPRESS – The Commission discussed an internet advertising of a company called Commission Express, which advances commissions to real estate agents up to 90 days prior to a real estate transaction closing and whether this activity is in compliance with RSA 331-A. After review and discussion, the Commission requested the Investigator to request a reply from Commission Express as to why they think the company's activity with NH real estate licensees is legal under RSA 331-A.

FILE NO. 2006-015 – Attorney Sherry Hieber submitted a request for an extension to file a Form 11-A Reply to the complaint until a civil matter on the same issue is resolved in the courts. After review and discussion, the Commission decided to approve the extension request. The parties to be so notified.

IV. **HEARING 11:25 AM**

FILE NO. 2004-010 JOHN KULA V. JEAN A. YONKIN

Evaluator: Commissioner Heath

The following persons were present at the hearing:

Commission: Commissioners Arthur Slattery, Nancy LeRoy and Pauline Ikawa

Stenographer: Lynn A. Beck

Nolin, McKenna & Duffy Reporting
Associates
P.O. Box 1658
Dover, NH 03821-1658

Evaluator: Commissioner Heath evaluated the above matter and abstained from participation in the discussion and resulting decisions.

Complainant: John Kula

8 Majestic Lane
Merrimack, NH 03054

Attorney: Pro Se

Witnesses: Rebecca Kula

Respondents: Jean Yonkin

Re/Max Properties I
230 Amherst Street
Nashua, NH 03063

Attorney: Pro Se

Witnesses: Richard Stoudt

DECISION: Pending – subject to review of transcripts and exhibits.

V. **OTHER BUSINESS**

1. The Commission unanimously approved July 18, 2006 as the next regularly scheduled meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2003-08-01**

Evaluator: Commissioner Slattery

Determination: Should be heard, hearing to be scheduled.

(b) **FILE NO. 2005-021**

Evaluator: Commissioner Heath

Determination: Should be heard, hearing to be scheduled.

(c) **FILE NO. 2006-002**

Evaluator: Commissioner Slattery

Determination: Should be heard, hearing to be scheduled. In the alternative, the Commission unanimously decided to offer the Respondents a settlement agreement with a disciplinary fine in the amount of \$500 for each Respondent.

(d) **FILE NO. 2006-005**

Evaluator: Commissioner LeRoy

Determination: Should be heard, hearing to be scheduled. In the alternative, the Commission unanimously decided to offer the Respondent a settlement agreement requiring an accredited 3 hour course covering property disclosures.

(e) **FILE NO. 2006-006**

Evaluator: Commissioner Heath

Determination: No violation, no hearing necessary.

(f) **FILE NO. 2006-009**

Evaluator: Commissioner Heath

Determination: Should be heard, hearing to be scheduled.

The above determinations were unanimously approved by the Commission.

3. COMMISSION MINUTES

On motion by Commissioner LeRoy, seconded by Commissioner Ikawa, the Commission approved an Amendment to the February 21, 2006 Commission Minutes which were previously approved at the March meeting.

On motion by Commissioner LeRoy, seconded by Commissioner Ikawa, the Commission unanimously approved the Minutes of the Commission meeting held on March 21, 2006.

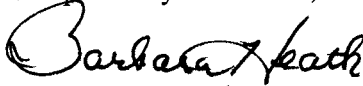
On motion by Commissioner LeRoy, seconded by Commissioner Heath, the Commission unanimously approved the Minutes of the Commission meeting held on April 20, 2006.

On motion by Commissioner LeRoy, seconded by Commission Slattery, the Commission unanimously approved the Minutes of the Commission meeting held on May 15, 2006

VI. **ADJOURNMENT**

Motion by Commissioner LeRoy, seconded by Commissioner Ikawa to adjourn the meeting. Commissioner Slattery adjourned the meeting at 2:25 p.m.

Respectfully submitted,



Barbara H. Heath
Clerk