

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

MARCH 18, 2008

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, March 18, 2008 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting was called to order at 8:37 a.m. by Chairman Nancy LeRoy

Present: Commissioners Nancy LeRoy, Barbara Heath, Daniel Jones, Executive Director Beth Edes, and Investigator Ann Flanagan.

I. APPOINTMENTS

8:37 a.m. - Equivalency Appointments

The following Commissioners were present and voting for the following equivalency appointment: Nancy LeRoy, Barbara Heath and Daniel Jones.

CATHERINE CORRENTI

On motion by Commissioner Jones, seconded by Commissioner Heath, the Commission approved Ms. Correnti's real estate experience and transactional experience submitted as sufficient experience pursuant to RSA 331-A:10, II (c) and (g).

COMMISSIONER STEPHEN WAS PRESENT AND VOTING AT THE MEETING AT 8:45 AM

The following Commissioners were present and voting for the following equivalency appointments: Nancy LeRoy, Barbara Heath, Daniel Jones and Robert Stephen.

DAVID SANDERSON

On motion by Commissioner Heath, seconded by Commissioner Jones, the Commission approved Mr. Sanderson's transactional experience as equivalent experience required for a broker's license, pursuant to RSA 331-A:10, II (g).

ORLO COOTS

On motion by Commissioner Jones, seconded by Commissioner Stephen, the Commission approved Mr. Coots' transactional experience as equivalent experience required for a broker's license, pursuant to RSA 331-A:10, II (g). Commissioner Jones asked Mr. Coots if he would be willing to inform the Commission when and if Mr. Coots decided to practice residential or commercial real estate. Mr. Coots agreed to comply with this request.

- II. On motion by Commissioner Jones, seconded by Commissioner Heath, the Commission approved the Minutes of the Commission meeting held on February 19, 2008.

III. **HEARING 9:00 AM**

FILE NO. 2005-009 NEW HAMPSHIRE REAL ESTATE COMMISSION VS ROBERT VAN LAARHOVEN AND MARGHERITA VERANI

The following persons were present at the hearing:

Commission: Commissioners Nancy LeRoy, Barbara Heath and Daniel Jones

Stenographer: Lynne A. Beck

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

Evaluator: Former Commissioner Slattery evaluated the above matter and did not take part in the discussion or decision. Commissioner Stephen was recused and did not take part in the discussion or decision.

Complainant: Ann Flanagan, Investigator of the NH Real Estate Commission

Attorney: Pro Se

Witnesses: None

Respondents: Robert Van Laarhoven

Prudential Verani Realty
60 Crystal Avenue
Derry, NH 03036

&

Margherita Verani

Verani Realty, Inc.
One Verani Way
Londonderry, NH 03053

Attorney: John F. Bisson

Cronin & Bisson, P.C.
722 Chestnut Street
Manchester, NH 03104

Witnesses: Margaret Walther
Debra Gallant

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

COMMISSIONER IKAWA WAS PRESENT AND VOTING AT THE MEETING AT 10:05 AM

IV. **ORDER ON MOTION TO CONTINUE**

The Commission issued an Order granting a request for motion to continue filed by Wilma Willson on the following hearings scheduled for March 18, 2008:

FILE NO. 2005-009 HARLINDA WEBB & NEW HAMPSHIRE REAL ESTATE COMMISSION
VS WILMA WILLSON

FILE NO. 2005-013 NEW HAMPSHIRE REAL ESTATE COMMISSION VS WILMA WILLSON

V. **HEARING 10:40 AM**

FILE NO. 2006-031 NEW HAMPSHIRE REAL ESTATE COMMISSION VS THOMAS
ALEXANDER SVOLEANTOPOULOS & BRIAN MOSES

The following persons were present at the hearing:

Commission: Commissioners Nancy LeRoy, Robert Stephen, Pauline Ikawa, Barbara Heath and Daniel Jones

Stenographer: Lynne a. Beck

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

Evaluator: Former Commissioner Slattery evaluated the above matter and did not take part in the discussion or decision.

Complainant: Ann Flanagan, Investigator of the NH Real Estate Commission

Attorney: Pro Se

Witnesses: None

Respondent: Thomas Svoleantopoulos

Leadergate Realty Group, LLC
10 West Appleton Street
Manchester, NH 03104

&

Brian R. Moses

Brian Moses & Associates Realty, Inc.
188 Main Street
Nashua, NH 03060

Attorney: Pro Se

Witnesses: None

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

VI. **NON-PUBLIC SESSION 11:35 AM**

On a motion by Commissioner Stephen, seconded by Commissioner Ikawa, the Commission adjourned the public meeting and went into a non-public session, pursuant to RSA 91-A:3, (a). On motion by Commissioner Jones, seconded by Commissioner Stephen, the Commission adjourned the non-public session at 11:55 a.m.

VII. **PUBLIC MEETING RECONVENED AT 12:00 PM**

On motion by Commissioner Jones, seconded by Commissioner Stephen, the Commission reconvened the Public Meeting at 12:00 p.m.

VIII. **DISCUSSION**

GREG PATCH submitted a request for Commission clarification as to whether it is permissible to offer a drawing entry for real estate leads. After review and discussion, the Commission stated that as long as the entry of the drawing is not tied to listing, selling, or the results of a sale of real estate, it does not violate RSA 331-A. Mr. Patch to be so notified.

STEPHEN PATRIQUIN of the Bean Group submitted a request for a clarification from the Commission on whether electronic platforms for documents, files and record keeping, including electronic signatures of clients and customers meets the requirements of RSA 331-A and administrative rules 100-700. After review and discussion, the Commission tabled its decision and directed the Executive Director to get an opinion from the Attorney General's office on the matter. Mr. Patriquin to be so notified.

HANK STOUDT submitted a request for Commission clarification as to whether certain price range advertisements are deceptive. After review and discussion, the Commission, on motion by Commissioner Stephen, seconded by Commissioner Jones directed the Commission's Investigator to contact Mr. Stoudt and ask if he would like to initiate a formal complaint with the Commission, and if not, the Investigator is to conduct an investigation on the matter and initiate a complaint if substantiated. Mr. Stoudt to be so notified.

ANN FLANAGAN, the Commission's Investigators submitted a request for clarification as to whether the activities of www.buyatimeshare.com require a real estate license. This company receives for compensation, an upfront advertising fee only. The prospective buyer contacts the seller directly through an e-mail link. However, the company offers a free service of negotiating

between the buyer and seller if the seller chooses. The company feels they are not violating the licensing requirement because they do not charge for the negotiation services. After review and discussion, the Commission stated that individuals within the company would require a license to negotiate on behalf of the seller or buyer. The Commission directed Ms. Flanagan to notify the company of its decision.

IX. **DELIBERATION OF FILE NO. 2005-025**

Commission deliberation of File No. 2005-025 Barbara Russack vs. Barry Mazzaglia. After review of the records, transcripts and exhibits, the Commission made a finding on File No. 2005-025. An Order will be issued and presented to the Commission for approval at its next meeting.

X. **PUBLIC MEETING ADJOURNED 1:00 PM**

The Commission adjourned the public meeting at 1:00 p.m. to consult with its legal counsel. The non-public meeting was adjourned and the public meeting was reconvened at 1:15 p.m.

XI. **OTHER BUSINESS**

1. The Commission unanimously approved the following date for the April meeting:

April 15, 2008 at 8:30 a.m.

2. CASE EVALUATIONS

- (a) FILE NO. 2007-020

Evaluator: Commissioner Jones

Determination: No violation, no hearing necessary.

The above determination was unanimously approved by the Commission.

3. ORDERS

The following Orders were issued by the Commission and are attached to the Minutes of this meeting:

FILE NO. 2006-026 NEW HAMPSHIRE REAL ESTATE COMMISSION VS
KENNETH DEMARCO

FILE NO. 2006-008 NEW HAMPSHIRE REAL ESTATE COMMISSION VS
STEPHEN WELLS

XII. ADJOURNMENT

On motion by Commissioner Ikawa, seconded by Commissioner Jones, to adjourn the meeting. Chairman Nancy LeRoy adjourned the meeting at 1:35 p.m.

Respectfully submitted,



Barbara J. Heath
Clerk

NEW HAMPSHIRE REAL ESTATE COMMISSION

V.

KENNETH DEMARCO

ORDER

FILE NO. 2006-026

This matter comes before the Real Estate Commission on the complaint of its Investigator, Ann Flanagan, who alleges violation of NH RSA 331-A:26, XXXVII, by Kenneth DeMarco. The Real Estate Commission after notice and hearing in the above captioned matter makes the following findings of fact:

1. Kenneth DeMarco (hereinafter referred to as Respondent) was licensed as a real estate salesperson on 8/3/04, and was so licensed at the time of the alleged violation.
2. Respondent pled guilty to Class B misdemeanor Simple Assault on 1/23/06 at Plaistow District Court.
3. Respondent did not notify the New Hampshire Real Estate Commission of this conviction until 8/2/06 on his salesperson renewal application; therefore, he did not meet the 30 day written notification requirement.
4. Harry Dadian signed Respondent's salesperson renewal application as principal broker on 7/31/06 on which Respondent answered "YES" to question #4 indicating that he had been convicted of a criminal offense since his last license application.
5. This was Respondent's first renewal as a licensee.

6. Respondent indicates in his reply to the complaint that he was embarrassed about it and was unaware that he was supposed to notify his broker and the New Hampshire Real Estate Commission within 30 days of the conviction.
7. Respondent's broker Harry Dadian confirms that he was unaware of the conviction until Respondent approached him with the renewal application, and the broker Harry Dadian told Respondent that he needed to report it to the New Hampshire Real Estate Commission.
8. Respondent had recently completed his pre-licensing and renewal education regarding licensing requirements, but this is not a topic ordinarily covered in new agent training.
9. Respondent testified that he successfully completed anger management counseling, and provided evidence in the form of a letter from the counselor indicating Respondent is not a danger.

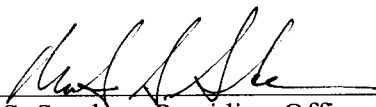
Based on the foregoing findings of fact, the Commission hereby issues the following rulings of law:

Respondent admitted that he failed to inform the Commission in writing within 30 days of being convicted in a court of competent jurisdiction of an offense involving physical violence. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, XXXVII.


In view of the foregoing rulings of law, the Commission orders that although Respondent did technically violate the regulation, that no disciplinary action would be

assessed against Respondent for this violation. The Commission took into consideration evidence that Respondent was not trying to conceal his conviction, but rather that Respondent was unaware of the 30 day reporting requirement. The Commission was satisfied that Respondent would be taking a New Hampshire Real Estate Commission accredited 3-hour core course for his upcoming August 2008 license renewal. Furthermore, the Commission considered the positive letter from the counselor and Respondent's otherwise good history.

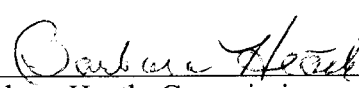
Former Commissioner Arthur Slattery evaluated this case and did not participate in the hearing or decision.



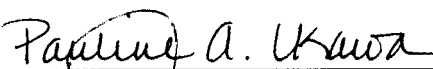
Robert S. Stephen, Presiding Officer 3/18/08
DATE



Nancy LeRoy, Chairperson 3/18/08
DATE



Barbara Heath, Commissioner 3/18/08
DATE



Pauline A. Ikawa, Commissioner 3/18/08
DATE



Daniel Jones, Commissioner 3/18/08
DATE

NEW HAMPSHIRE REAL ESTATE COMMISSION

V.

STEPHEN WELLS

ORDER

FILE NO. 2006-008

This matter comes before the Real Estate Commission on the complaint of its Investigator, Ann Flanagan, who alleges violation of Rea 701.02 and Rea 701.04, by Stephen Wells. The Real Estate Commission after notice and hearing in the above captioned matter makes the following findings of fact:

1. Stephen Wells (hereinafter referred to as Respondent) was licensed as a real estate broker on 9/22/03, and was so licensed and the principal broker of Realty-1 Wells Real Estate at the time of the alleged violation.
2. The Commission's Investigator conducted an on-site inspection on 1/20/06, at Realty-1 Wells Real Estate.
3. Respondent listed a property located at 28 Osgood Road, Milford, NH executed on 8/16/05.
4. The property had public water and sewer.
5. The seller's property disclosure was signed by the seller on 8/18/05, two days after the listing was signed.
6. The material facts represented in the seller's property disclosure was not signed by the buyer.

7. Respondent testified that he listed the property as an entry only fee for service; the seller was a friend of Respondent who bought the property through Respondent the year prior, and the seller already had a buyer for the property who was a friend of the seller.
8. Respondent testified that the seller was a contractor and did significant work to the property, and that the buyer was also a contractor.
9. Respondent testified that he never met the buyer and did not attend the closing, and that he gave the property disclosure to the seller to give to the buyer but never got a signed copy from the buyer.
10. The Commission Investigator testified that there were no consumer complaints regarding this transaction.

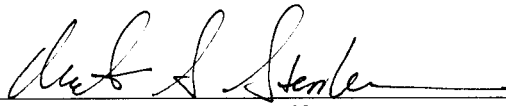
Based on the foregoing findings of fact, the Commission hereby issues the following rulings of law:

Respondent received a fee for this transaction and was acting as a real estate broker even though his services were limited. Acting in a fee for service capacity does not negate the necessity of proper property disclosure documentation. Therefore, the Commission rules that Respondent did violate Rea 701.02 and Rea 701.04.


In view of the foregoing rulings of law, the Commission orders that Respondent attend a New Hampshire Real Estate Commission accredited 3-hour live class about property disclosure within six (6) months of the date of this Order.

Commissioner Pauline Ikawa participated in the hearing proceedings but abstained from decisions regarding the violations and disciplinary action.

Former Commissioner Arthur Slattery evaluated this case and did not participate in the hearing or decision.



Robert S. Stephen, Presiding Officer 3/18/08
DATE



Nancy LeRoy, Chairperson 3/18/08
DATE



Barbara Heath, Commissioner 3/18/08
DATE



Pauline A. Ikawa, Commissioner 3/18/08
DATE



Daniel Jones, Commissioner 3/18/08
DATE