

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

MARCH 25, 2009

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, March 25, 2009 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting was called to order at 8:35 a.m. by Chairman Nancy LeRoy

Present: Commissioners Nancy LeRoy, Pauline Ikawa, Daniel Jones, David Dunn, Executive Director Beth Edes, Investigator Ann Flanagan and Education Program Assistant Fran West.

I. APPOINTMENTS

8:35 a.m. - Equivalency Appointments

JOLIN SALAZAR-KISH

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

ANDREW CONSOLI

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

8:45 a.m. KELLY COHEN appeared before the Commission to request approval as an accredited real estate instructor to teach pre-licensing education, pursuant to Rea 302.01. After review and discussion, the Commission decided to approve Ms. Cohen's accreditation as a pre-licensing instructor, contingent upon a satisfactory review of an audio recording of Ms. Cohen's presentation of portions of the pre-licensing materials she intends to teach. The Commission directed Ms. West, the Education Program Assistant to review the audio recording(s) and if found to be acceptable to accredit Ms. Cohen as a pre-licensing instructor.

9:00 a.m. ALAN RICE appeared before the Commission to discuss the expired accreditation of his core continuing education course. Mr. Rice's accredited core course expired on February 4, 2009. On February 17, 2009, Mr. Rice called to say that he was to teach the core course that morning and informed Ms. West, the Commission's Education Program Assistant that he mailed his re-accreditation material to the Commission and was expected to be in the office that same day. The information was received in the Commission office on February 17, 2009. After Ms. West reviewed the material, the course outline was found to contain outdated material and was not accredited on that day. Mr. Rice explained that the outline was not updated, but all material taught and handed out was updated material. After review and discussion, the Commission decided to allow Mr. Rice to be re-accredited contingent upon Mr. Rice submitting an acceptable video recording of him presenting the core continuing education course.

9:30 a.m. ORLANDO LOKPEZ appeared before the Commission to request reinstatement of his lapsed license pursuant to RSA 331-A:18, II. After review and discussion, the Commission on motion by Commissioner Jones, seconded by Commissioner Dunn decided to approve the reinstatement of Mr. Lokpez's lapsed license based on good cause shown as required by RSA 331-A:18, II.

9:37 a.m. FRANCES L. WRIEDT appeared before the Commission to request reinstatement of her lapse license pursuant to RSA 331-A:18, II. After review and discussion, the Commission on motion by Commissioner Dunn, seconded by Commissioner Jones decided to approve the reinstatement of Ms. Wriedt's lapsed license based on good cause shown as required by RSA 331-A:18, II.

II. DISCUSSION

FILE NO. 2008-035 – The Complainant of File 2008-035 submitted a request to withdraw the complaint to the Commission due to the resolution of the parties differences. After review and discussion, the Commission on motion by Commissioner Dunn, seconded by Commissioner Jones decided to approve the withdrawal of Complaint File 2008-035. The parties to the complaint to be so notified.

BROKERAGE RELATIONSHIP DISCLOSURE FORM – After review and discussion the Commission made additional changes to the Brokerage Relationship Disclosure Form adopted by the Commission on January 30, 2009.

III. HEARING 9:42 AM

FILE NO. 2007-016 MARIANN PATTERSON VS SUSAN MESITI & NICHOLAS KALANTZAKOS

The following person were present at the hearing:

Commission: Commissioners Pauline Ikawa, David Dunn and Daniel Jones

Stenographer: Camille M. Palladino-Duffy

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

Evaluator: Commissioner LeRoy evaluated the above matter and abstained from participation in the discussion.

Complainant: Mariann Patterson

Attorney: Pro Se

Witnesses: William Patterson

Respondents: Susan Mesiti
&
Nicholas Kalantzakos

Attorney: Matthew R. Johnson

Witnesses: Anthony Mesiti

12:45 PM - COMMISSIONER IKAWA was not present for the Public Hearing or the remainder of the Commission meeting.

IV. ADJOURNMENT

On a motion by Commissioner Dunn, seconded by Commissioner Jones, the Commission adjourned the meeting at 12:55 p.m. and opened the Public Hearing on Administrative Rule Amendment Rea 301.02 Fees.

V. PUBLIC HEARING 12:55 PM

The Commission conducted a public hearing on the initial proposal of the rule amendment to Rea 301.02 Fees. After taking into consideration all written and oral testimony, the Commission, on motion by Commissioner Jones, seconded by Commissioner Dunn issued the following final proposal for the rule amendment on Rea 301.02:

Rea 301.02 Fees.

- (a) The applicant for each original individual, firm, or firm branch broker license and renewal thereof shall pay a fee of \$100.
- (b) The applicant for each original salesperson license and renewal thereof shall pay a fee of \$80.
- (c) The broker, salesperson, firm, or firm branch shall pay a fee of \$5 for each duplicate license.
- (d) The broker, salesperson, firm, or firm branch shall pay a fee of \$20 for each license amendment.
- (e) The broker, salesperson, firm, or firm branch shall pay a fee of \$5 for each certificate of license and good standing.

- (f) The applicant for each qualifying examination shall pay a fee of \$115 for a salesperson examination and \$130 for a broker examination.
- (g) Any individual or firm shall pay a fee of \$25 or 5% of the face amount of the check, whichever is greater, plus all protest and bank fees for each check, draft or money order dishonored and returned to the commission pursuant to RSA 6:11-a.
- (h) The broker, salesperson, firm, or firm branch shall pay a late fee of \$60, in addition to the regular renewal fee, for renewal of a license up to 6 months after license expiration.
- (i) Real estate course providers shall pay an evaluation fee of \$50 each time a course is submitted to the commission for accreditation or reaccreditation.
- (j) Real estate applicants and licensees shall pay a fee of \$10 for each course submitted to the commission to be evaluated for pre-licensing education credit or continuing education credit.

On motion by Commissioner Dunn, seconded by Commissioner Jones, the Commission adjourned the Public Hearing at 1:03 p.m. and reopened the Commission meeting.

VI. RULEMAKING

The Commission, on motion by Commissioner Jones, seconded by Commissioner Dunn, approved following initial proposal for Rea 302.01 to be entered into the formal administrative rulemaking process:

Rea 302.01 Programs of Study Accreditation and Re-accreditation.

- (a) Any individual applying for accreditation or any corporation applying for accreditation to instruct a real estate *pre-licensing or continuing education* course shall submit to the commission documents substantiating the applicant's qualifications to instruct such course, including, but not limited to (b) *and* (c) below. The applicant shall be scheduled to appear before the commission to address any questions the commission has prior to the commission deciding whether to approve or deny accreditation.
- (b) All individuals ~~or corporations~~ applying for accreditation ~~shall complete at least 72 hours of course teaching of real estate related subjects in New Hampshire before requesting accreditation before the commission.~~ *as a pre-licensing or core continuing education instructor shall demonstrate the following:*

(1) Brokerage experience qualifications or other qualifications found by the commission to be equivalent to the following:

a. An active broker license with 3 years of full-time experience in real estate brokerage within the past 5 years, 2 of which must have been in New Hampshire within the previous 3 years from the date of application; and

(2) Teaching experience qualifications or other qualifications found by the commission to be equivalent to the following:

a. A bachelor's degree or higher in the field of education from an accredited college, university, or institute of higher learning within 5 years prior to the date of application; or

b. A minimum of 150 hours of course teaching, speaking, or presentation experience within 2 years prior to the date of application; and

(3) The following demonstration of subject matter knowledge and good teaching skills:

a. An applicant for pre-licensing instructor accreditation shall submit a one-hour unedited video or DVD recording which depicts the applicant teaching New Hampshire state specific pre-licensing material.

b. An applicant for core continuing education instructor accreditation shall submit an unedited video or DVD recording which depicts the applicant teaching a New Hampshire core continuing education course.

(c) All individuals applying for accreditation as an elective continuing education instructor shall demonstrate the following:

(1) Experience qualifications or other qualifications found by the commission to be equivalent to the following:

a. A bachelor's degree or higher from an accredited college, university or institute of higher learning with coursework related to the field of the subject matter of the course within 5 years prior to the date of application; or

b. Three years full-time work experience or teaching experience within the previous 5 years of the date of application that is related to the field of the subject matter of the course; and

(2) The following evidence of teaching experience or ability qualifications or other qualifications found by the commission to be equivalent to the following:

a. A bachelor's degree or higher in the field of education from an accredited college, university or institute of higher learning within 5 years prior to the date of application; or

b. A minimum of 15 hours of course teaching, speaking or presentation experience within 2 years prior to the date of application; or

c. Submission of a one-hour unedited video or DVD recording which demonstrates that the applicant possesses good teaching skills in the subject matter to be taught.

(e)(d) All individuals or ~~corporations~~ *firms* shall apply for re-accreditation *of pre-licensing, core, and elective continuing education courses* within one year from the date of original accreditation or re-accreditation.

VII. OTHER BUSINESS

1. The Commission unanimously approved the following date for the April meeting:
April 21, 2009 at 8:30 a.m.

2. CASE EVALUATIONS

(a) FILE NO. 2008-012

Evaluator: Commissioner Jones

Determination: No violation, should not be heard. The Commission directed the Investigator to file a parallel complaint on File No. 2008-012.

(b) FILE NO. 2008-017

Evaluator: Commissioner Jones

Determination: Should be heard, hearing to be scheduled.

(c) FILE NO. 2008-018

Evaluator: Commissioner LeRoy

Determination: No violation, should not be heard.

(d) FILE NO. 2008-028

Evaluator: Commissioner LeRoy

Determination: Should be heard, hearing to be scheduled. In the alternative, the Commission decided to offer the Respondent a Settlement Agreement requiring the Respondent to pay a disciplinary fine in the amount of \$200 and complete an accredited three hour continuing education course on contracts.

The above determinations were unanimously approved by the Commission.

3. ORDERS

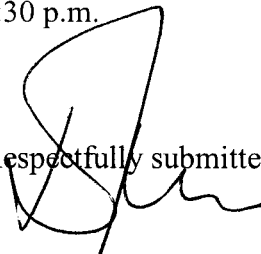
The following Order was issued by the Commission and is attached to the Minutes of this meeting:

FILE NO. 2007-031 NEW HAMPSHIRE REAL ESTATE COMMISSION VS SCOTT HEIDENREICH

VI. ADJOURNMENT

On motion by Commissioner Dunn, seconded by Commissioner Jones, to adjourn the meeting, Chairman Nancy LeRoy adjourned the meeting at 4:30 p.m.

Respectfully submitted,



Daniel S. Jones
Acting Clerk

NEW HAMPSHIRE REAL ESTATE COMMISSION

V.

SCOTT A. HEIDENREICH

ORDER

FILE NO. 2007-031

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, XXX, XXXVII, by Scott A. Heidenreich. The Real Estate Commission after notice and hearing in the above captioned matter makes the following findings of fact:

1. Due to the lack of a quorum of Commissioners able to hear this case, the Commission appointed former Commissioner Arthur Slattery to serve as an alternate Commissioner, and he was sworn in to hear this case, pursuant to NH RSA 331-A:5, VIII.
2. Scott A. Heidenreich (hereinafter referred to as Respondent) was licensed as a real estate salesperson on 3/14/00, and was so licensed at the time of the alleged violations.
3. Respondent pled Nolo on 4/19/07 in Manchester District Court docket #06-CR-12843, Class B Misdemeanor – Issuing Bad Checks.
4. Respondent received a \$1,000 suspended fine 1 year good behavior, and restitution to the victim through the NH Department of Probation.
5. Respondent failed to inform the NH Real Estate Commission in writing within 30 days of conviction as required.

6. Commission Investigator Ann Flanagan obtained information from Manchester District Court regarding Respondent's criminal conviction.
7. Respondent testified that his failure to notify the Commission was an oversight due to having a lot going on at the time (Tr. p.8, lines 18-21).
8. Respondent testified that he fully complied with the sentencing requirements of good behavior and restitution to the victim, and that he did not have to pay the suspended fine (Tr. p.12-13, lines 16-18).
9. Respondent testified that he would provide confirmation documentation to the Commission that he complied with the sentencing (Tr. p.13, line 6; p.13-14, lines 18-4).

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

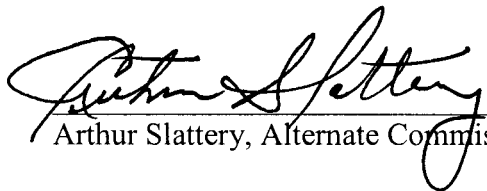
Respondent was convicted in Manchester District Court of a Class B Misdemeanor: Issuing Bad Checks. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, III.

Respondent failed to inform the NH Real Estate Commission in writing within 30 days of conviction as required, and the Commission Investigator obtained the information from Manchester District Court regarding Respondent's criminal conviction. Therefore, the Commission rules that Respondent did violate RSA 331-A:26, XXXVII.

In view of the foregoing rulings of law, the Real Estate Commission hereby orders that Respondent show proof of full attendance at a New Hampshire Real Estate

Commission accredited 3-hour continuing education course about Ethics (this continuing education course is to be completed by a live classroom delivery method only and is not to be counted towards Respondent's continuing education requirements) within three (3) months of the date of this Order. Respondent shall also pay a disciplinary fine in the amount of two-hundred dollars (\$200) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire, within two (2) months of the effective date of this Agreement. Respondent shall also provide documentation to the Commission from the New Hampshire Department of Probation acknowledging Respondent's compliance with the terms of his sentencing within thirty (30) days of the date of this Order.

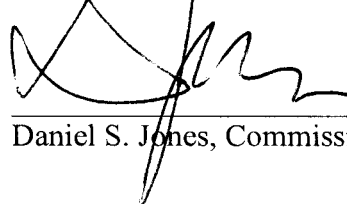
Commissioner Pauline Ikawa evaluated this case and did not take part in the hearing or decision.


Arthur Slattery, Alternate Commissioner

4/3/08
DATE


Nancy LeRoy, Chairperson

3/25/08
DATE


Daniel S. Jones, Commissioner

3/25/08
DATE