

BEFORE THE
NEW HAMPSHIRE REAL ESTATE COMMISSION
CONCORD NH 03301

In the Matter of:

File No. 2013-031 NH Real Estate Commission v. James R. Therrien & Marcia D. Gloddy; Re: Complainant of Richard A. Berger & Sandra R. Berger

Allegations: RSA 331-A:25-b, II, a; RSA 331-A:26, IV; RSA 331-A:26, V; RSA 331-A:26, XXIX; Rea 701.02

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of real estate, the New Hampshire Real Estate Commission ("Commission") and James R. Therrien ("the Licensee" or "the Respondent"), a real estate salesperson currently licensed by the Commission until June 13, 2015, agree to resolve certain allegations of professional misconduct now pending before the Commission in accordance with the following terms and conditions:

1. The parties stipulate that the Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to RSA 331-A:29, I and RSA 541-A:31, V, and if such a proceeding were commenced, the allegations against the Respondent would be:

Respondent was the listing agent (property listed on 4/23/12) for a detached single family condominium property located at 102 Hampton Meadows, Hampton NH, which is in the same condominium complex where Respondent Therrien personally resides. Respondent was the assistant treasurer of the Condominium Association Board of Directors for several years until February 24, 2012 during which time the Board of

Directors authorized hiring an attorney to represent Hampton Meadows to argue against the development project across the street from the property. Respondent's MLS listing sheet dated 5/18/12 stated in the Public Remarks: "Enjoy the tranquility of seeing the high tides wash through the marshes from your windows. Move in the AM and party and watch the sunset in the PM". There was also a photograph in Respondent's MLS listing photo gallery attachment that showed the scenic "view across the street". Respondent in response to the Commission Investigator Ann Flanagan's inquiry, admits in his 1/24/14 email that "During the time my listing was active through the period it closed, I was aware apartment would be built", and in that same email Respondent also indicates "but I was not aware of the details until after #102 HM closed and the actual construction began.....I was not aware of the timing of the project, size of the buildings or the placement of the buildings". Respondent states in his 2/17/14 email in reply to the Commission Investigator's 2/14/14 email inquiry, that he never had a discussion about the construction project with his sellers or his brokers. Considering Respondent's knowledge regarding the pending construction project, which subsequently obstructed the buyer's view of the salt marsh across the street, Respondent's actions in advertising the property with scenic views violated RSA 331-A:25-b, II, a; RSA 331-A:26, IV; and RSA 331-A:26, XXIX.

2. The Respondent for purposes of resolving this matter does not contest the allegations described in Paragraph 1 above.

3. The Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:28, I. The Respondent shall pay a disciplinary fine in the amount of three-thousand dollars (\$3,000) of which fifteen-hundred dollars (\$1,500) shall be suspended provided that Respondent remains on good behavior (no violations of RSA 331-A or Code of Administrative Rules) for a period of one year, to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within ninety (90) days of the effective date of this Settlement Agreement; and 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 classroom delivery method only and is not to be counted towards Respondent's continuing education requirements) within one-hundred and twenty (120) days of the effective date of this Settlement Agreement. Respondent will submit his resignation as a New Hampshire Real Estate Commissioner within one week of the effective date of this Settlement Agreement. Failure to comply with this disciplinary Settlement Agreement by Respondent will result in the suspension of Respondent's real estate license until the fine is paid.
4. The Respondent's failure to adhere to any requirement imposed by this Agreement shall be a separate and sufficient ground for disciplinary action by the Commission.
5. Except as provided in Item 3 and 4 above, this Agreement shall forever bar further disciplinary action or other adverse action by the Commission based upon the specific allegations described above in Paragraph 1, the complaint initiating this action and/or the allegations contained within the July 1, 2014 Notice of Hearing, provided, however, that this Agreement may be considered by the Commission in determining

whether the Respondent has engaged in a pattern of misconduct, or in determining the nature of any sanctions which may be imposed in any subsequent disciplinary proceeding arising out of different misconduct allegations.

6. The Respondent voluntarily signs this Settlement Agreement and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
7. Respondent understands that his action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.
8. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this Agreement.
9. Respondent understands that the Commission must review and accept the terms of this Agreement. If the Commission rejects any portion, the entire Agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Commission during its review of this Agreement have prejudiced his right to a fair and impartial hearing in the future if this Agreement is not accepted by the Commission.
10. Respondent certifies that he has read this document titled Settlement Agreement. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of

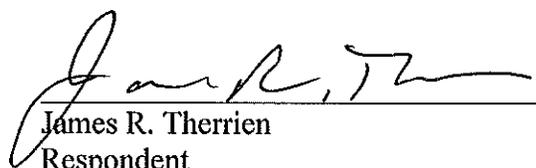
these rights. Respondent understands that by signing this Agreement, he waives these rights as they pertain to the misconduct described herein.

11. The effective date of this Agreement shall be on the date it is signed by the representative of the Commission shown below.

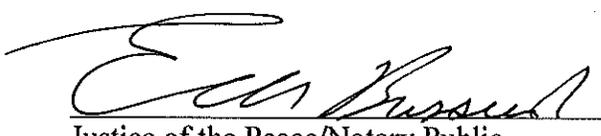
For the Respondent

I, James R. Therrien, have reviewed the forgoing Settlement Agreement settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this Settlement Agreement. Further, I knowingly and freely waive my right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this Settlement Agreement.

Dated: 09/26, 2014


James R. Therrien
Respondent

On this 26th day of September A.D. 20 14
personally appeared the person who subscribe to the following instrument and acknowledged the same as his voluntary act and deed before me.


Justice of the Peace/Notary Public
Emile Bussiere

My commission expires:
6-20-2017

For the Commission

Dated: September 26, 2014



Beth A. Edes
Executive Director
of the NH Real Estate Commission