

**Before the
New Hampshire Real Estate Commission
Concord, New Hampshire 03301**

In The Matter Of: **Docket No.: 2014-054**
**New Hampshire Real Estate Commission v. Eric J. Hall & Nathaniel J. Roxo &
Antonio F. Roxo**
License No.: 066326; 058328; 051387
(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Eric J. Hall ("Respondent Hall") and Nathaniel J. Roxo ("Respondent Nathaniel Roxo") and Antonio F. Roxo ("Respondent Antonio Roxo") in Docket Number 2014-054.

Background Information:

Respondents Eric Hall and Nathaniel Roxo advertised New Hampshire properties and their services as real estate licensees using their direct telephone numbers without including the firm telephone number. On October 7, 2014, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2014-054 against Respondent. Subsequent to an investigation, on February 26, 2015, the Commission issued a Notice of Hearing for a hearing scheduled for March 17, 2015.

On Tuesday, March 17, 2015, at 10:32 a.m., the Commission commenced the adjudicatory/disciplinary hearing in the above captioned matter. Commission members present¹ were:

David C. Dunn, Commissioner, Presiding Officer
Daniel S. Jones, Commissioner
William E. Barry, Commissioner
Calley M. Milne, Commissioner

The prosecution was conducted by Beth Edes, the Commission's Executive Director. Eric Hall, Nathaniel Roxo and Antonio Roxo, were pro se.

The following exhibits were introduced into evidence and accepted into the record:

¹ These same Commission members also deliberated and voted on this Final Decision and Order.

- Complainant Investigator Flanagan's Exhibits:
Exhibit #1 - Complaint File 2014-054: pages 1-21.

- The Respondent's exhibits introduced:
None.

- There were no witnesses at the hearing.

Findings of Fact:

In light of the testimony and exhibits, the Commission finds the following facts:

1. Respondent Hall has held a license as a real estate salesperson from the Commission since March 31, 2010. At the time of the allegations, Respondent was licensed as a real estate salesperson, license #066326. Respondent Hall is currently licensed with a license period of March 31, 2014 – March 31, 2016. Respondent Nathaniel Roxo was first granted a salesperson's license by the Commission on December 16, 2003, and has held a license as a real estate broker from the Commission since November 4, 2010. At the time of the allegations, Respondent was licensed as a real estate broker, license #058328. Respondent Nathaniel Roxo is currently licensed with a license period of November 4, 2014 – November 4, 2016. Respondent Antonio Roxo was first granted a salesperson's license by the Commission on January 6, 1999, and has held a license as a real estate broker from the Commission since August 8, 2002. At the time of the allegations, Respondent was licensed as a real estate broker, license #051387. Respondent Antonio Roxo is currently licensed with a license period of August 8, 2014 – August 8, 2016.

2. Respondent Hall and Respondent Nathaniel Roxo advertised New Hampshire properties and their services as real estate licensees on October 3, 2014 using their direct telephone numbers without also including the firm telephone number, nor did they include any identifying information for the telephone numbers.

3. Respondents' reply to the complaint indicated there was a glitch in an automatic email blast advertisement produced by their website software which pulled the agents' profile

information rather than the office profile information in the database, and they provided examples of other advertisements that were in compliance with Commission advertisement requirements.

Respondents stated in their reply that they were discontinuing future email blasts until they are sure all advertisements comply with Commission regulations.

4. Respondent Antonio Roxo is the principal broker of Roxo Realty, LLC and failed to supervise the advertising activities of Respondent Hall and Respondent Nathaniel Roxo.

5. Respondent Hall testified at the hearing that Respondents use a website administrator called z57 Internet Solutions (z57) that created a website for Respondents that sends email blasts out automatically when the Respondents have new listings and when there are updates to the listings.

6. Respondent Hall explained at the hearing that z57 pulls the listing from the Northern New England Real Estate Network (NNEREN) multiple listing site when Respondents enter the listing information into NNEREN. Respondent Hall stated that z57 should pull the individual agent names and telephone numbers and the firm name and telephone number, but the z57 database was only sending out the firm name Roxo Realty and the firm telephone number. Respondents requested z57 to make changes to the database so that the email blasts would also include the individual real estate agent names and telephone numbers, and when z57 made the requested changes, the database sent out the email advertisement dated October 3, 2014 that only included direct telephone numbers for Respondent Hall and Respondent Nathaniel Roxo, and did not include the direct telephone number for the firm Roxo Realty. This October 3, 2014 email advertisement was the basis for Complaint File No. 2014-054.

7. Respondent Hall testified that when this issue with the advertisement was brought to their attention by Investigator Flanagan, Respondent Hall contacted z57 right away to have them stop all email blasts and he requested z57 to change the database back to have the email blasts only display the firm name Roxo Realty and firm telephone number.

8. Respondent Antonio Roxo stated that this advertisement was not intentional that it was an isolated incident and that the Respondents try to comply with the letter of the law.

Respondent Antonio Roxo stated that advertisements were included in the Respondents reply to the complaint that were issued prior to and after the October 3, 2014 email advertisement showing that their advertisements were in compliance with the law.

9. Respondent Antonio Roxo stated, as the principal broker, that he will usually review advertising, such as advertising for open houses, but this advertisement he failed to do so.

Relevant Law:

RSA 331-A:16 Supervision of Real Estate Office; Branch Offices.

IV (b). Any advertising which contains a home telephone number, cell-phone number, beeper or pager number, home fax number, direct office number, electronic mail address, or any other means of contacting directly an individual salesperson or broker, or a team of such licensees, shall also include the name and telephone number of the individual principal broker or brokerage firm through which the advertising licensees operate. All such advertising shall contain language clearly identifying each number included in the advertising.

RSA 331-A:26 Prohibited Conduct. – The following acts, conduct or practices are prohibited, and any licensee found guilty after a hearing shall be subject to disciplinary action as provided in RSA 331-A:28:

XXVII. In the case of a principal broker or a licensee who is a branch manager, failing to exercise reasonable supervision over the activities of licensees and any unlicensed staff.

Rulings of Law:

The Commission makes the following findings by a preponderance of the evidence:

1. The Commission found that Respondents Eric Hall and Nathaniel Roxo advertised New Hampshire properties and their services as real estate licensees using their direct telephone numbers without including the firm telephone number on October 3, 2014, in violation of RSA 331-A:16, IV, (b). (Notice of Hearing, paragraph 5A)

2. The Commission found that Respondent Antonio Roxo as the principal broker of Roxo Realty, LLC failed to supervise the advertising activities of Respondent Eric Hall and Respondent Nathaniel Roxo on October 3, 2014, in violation of RSA 331-A:26, XXVII. (Notice of Hearing, paragraph 5B).

Disciplinary Action:

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that a suspended disciplinary fine in the amount of two-hundred fifty dollars (\$250) be imposed to each Respondent, and if Respondents are not found in violation of a similar violation within a year from the date of this Order, the fines will be permanently removed. If the Respondents are found in violation of a similar violation within a year from the date of the Order, the Respondents shall pay the disciplinary fine in the amount of two-hundred fifty dollars (\$250) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within thirty (30) days of the date of the finding of a similar violation. If any of the Respondents are found in violation of a similar violation but fail to comply with this disciplinary Order it will result in the suspension of that Respondent's real estate license until the fine is paid.

IT IS FURTHER **ORDERED** that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

IT IS FURTHER **ORDERED** that this Final Decision and Order shall become a permanent part of the Respondent's disciplinary file, which is maintained by the Commission as a public document.

IT IS FURTHER **ORDERED** that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

IT IS FURTHER **ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

David C. Dunn

David C. Dunn, Presiding Officer

4/21/2015

Date

D. Jones

Daniel S. Jones, Commissioner

4/21/15

Date

Wm. E. Barry

William E. Barry, Commissioner

04/21/2015

Date

Calley Milne

Calley M. Milne, Commissioner

4/21/2015

Date

*\ Paul A. Lipnick, Commission member, (case evaluator) recused.