

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

In The Matter Of:

Docket No.: 2015-002

New Hampshire Real Estate Commission v. Michael P. Rodriguez

License No.: 066900

(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Michael P. Rodriguez ("Respondent" or "Mr. Rodriguez") in Docket Number 2015-002.

Background Information:

Respondent's broker renewal application was received at the Commission office on January 6, 2015. Respondent on his renewal application answered "No" to question #8, "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application." However, Respondent had a disciplinary action against his broker license through a Consent Agreement approved by the Maine Real Estate Commission on March 21, 2013. On January 7, 2015, Commission Investigator Ann Flanagan initiated Complaint File No. 2015-002 against Respondent. Subsequent to an investigation, on September 22, 2015, the Commission issued a Notice of Hearing for a hearing scheduled for November 17, 2015.

On Tuesday, November 17, 2015, at 9:40 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present¹ were:

John G. Cronin, Commissioner, Presiding Officer
Daniel S. Jones, Commissioner
Calley M. Milne, Commissioner
Paul A. Lipnick, Commissioner

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

The prosecution was conducted by Kinsman Corthell, the Commission's Investigator. Mr. Rodriguez was pro se.

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

- Complainant Investigator Corthell's Exhibits:
 - Exhibit #1 – Documents from Complaint File 2015-002: pages 1-12.
 - Exhibit #2 – Investigator Corthell's Details of Events for Docket No. 2015-002 and E-mail Communication with the Maine Real Estate Commission
- The Respondent's exhibits: none were introduced.

Witnesses: Michael Rodriguez

Findings of Fact:

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

1. Respondent has held a license as a real estate broker from the Commission since December 10, 2010. Respondent is licensed as a real estate broker, license #066900, in inactive status with a license period of January 6, 2015 – December 10, 2016.
2. Respondent submitted his New Hampshire real estate broker license renewal application to the Commission which was received at the Commission office on January 6, 2015, and he answered "No" to question #8, "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application. (Ex. 1, pages 6-7)
3. Respondent had entered into a Consent Agreement with the Maine Real Estate Commission for failing to obtain and convey property disclosure information for 59 properties listed and sold by Respondent in Maine, and Respondent agreed to pay a \$10,000 disciplinary fine; this Consent Agreement was approved by the Maine Real Estate Commission on March 21, 2013. (Ex. 1, pages 4-5)

4. Respondent's reply to the complaint indicated that he felt the disciplinary fine was from 2012 and therefore thought that it didn't take place during the 2 previous years from application for renewal of his NH real estate broker license.

5. Respondent testified at the hearing that when he was completing his NH broker renewal form, which was submitted and received at the Commission on January 6, 2015, he was in a rush to complete the form and made a mistake by checking "no" instead of "yes" to question #8, "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application?". Respondent stated that he informed Investigator Flanagan in February 2015, that he made this mistake on the form, when Investigator Flanagan contacted him regarding Complaint File No. 2015-002.

6. Respondent admitted at the hearing that he was wrong and stated that he was willing to pay fine.

Relevant Law:

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:

I. – Obtaining or attempting to obtain a license by means of fraud, misrepresentation or concealment.

Rea 401.01 Renewal of License.

(a) Applicants for renewal of a broker's license shall use Form 6-RE and provide the following:

(21) Any real estate licenses that have been subject to disciplinary actions in any state since the licensee's last original or renewal application.

Rulings of Law:

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

1. Respondent attempted to obtain a license by means of misrepresentation by answering "No" to question #8, "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application" on his NH real estate broker license renewal application that was received at the Commission office on January 6, 2015, in violation of RSA 331-A:26, I. (Notice of Hearing, paragraph 5A)

2. The Respondent failed to provide to the Commission information regarding the disciplinary Consent Agreement he entered into with the Maine Real Estate Commission which was approved by Maine Real Estate Commission on March 21, 2013 with his NH real estate broker renewal received at the Commission office on January 6, 2015, in violation of Rea 401.01(a)(21). (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:

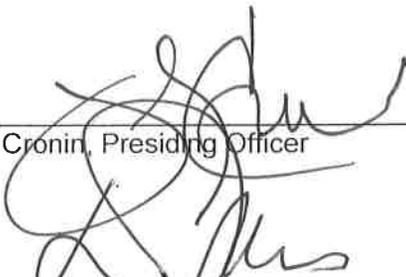
IT IS **ORDERED** that the Respondent pay a disciplinary fine in the amount of five hundred dollars (\$500) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within sixty (60) days of the effective date of this Order. Failure to comply with this disciplinary Order will result in the suspension of 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.



John G. Cronin, Presiding Officer

12/15/15
Date



Daniel S. Jones, Commissioner

12/15/15
Date



Calley M. Milne, Commissioner

12/15/2015
Date



Paul A. Lipnick, Commissioner

12-15-15
Date

*\ William E. Barry, Commission member, (case evaluator) recused.