

# NEW HAMPSHIRE REAL ESTATE COMMISSION

## COMMISSION MEETING

**FEBRUARY 18, 2014**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, February 18, 2014 at 8:30 a.m. in the Real Estate Commission Conference Room, 64 South Street, Concord, New Hampshire 03301.

- I. Meeting was called to order at 8:30 a.m. by Acting Chairman David Dunn.  
Present: Commissioners David Dunn, William Barry, Paul Lipnick, and James Therrien.
- II. On motion by Commissioner Barry, seconded by Commissioner Therrien, the Commission approved the Minutes of the Commission meeting held on January 21, 2014.

### III. APPOINTMENTS

8:40 a.m. – TINA M ENRICO appeared before the Commission to request reinstatement of her lapsed salesperson's license pursuant to RSA 331-A:18, II. After review and discussion, the Commission, on motion by Commissioner Barry, seconded by Commissioner Therrien decided to allow Ms. Enrico to reinstate her lapsed salesperson's license based on good cause shown as required by RSA 331-A:18, II.

### SHOW CAUSE HEARING

8:50 a.m. JASON MICHAEL RUSSELL appeared before the Commission for a show cause hearing regarding previous legal incidents he disclosed on his application for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Lipnick, seconded by Commissioner Therrien decided to allow Mr. Russell to apply for his original salesperson's license, contingent on receipt of a letter from his principal broker notifying the Commission that he is aware of Mr. Russell's previous legal incidents. Commissioner Barry was opposed to the decision.

9:00 a.m. DAVID LEPAGE was scheduled to appear before the Commission to request reinstatement of his lapsed salesperson's license pursuant to RSA 331-A:18, II. Mr. Lepage did not appear for his appointment before the Commission.

### IV. DISCUSSION

Commissioner Dunn requested a Commission discussion on licensee telephone number advertising compliance. After review and discussion, the Commission decided that RSA 331-A:16, IV requires advertising to include a dedicated office phone number. This requirement is not satisfied by the listing of direct lines for individual licensees which have a prompt to connect to a principal broker.

A Request for Continuance was submitted by Alan R. Rice the Respondent of File No. 2013-027 New Hampshire Real Estate Commission vs Alan R. Rice which was scheduled for February 18, 2014 at 10:30 a.m. After review and discussion, the Commission, on motion by Commissioner Barry, seconded by Commissioner Therrien decided to grant the request for Continuance based on good cause submitted in a timely manner pursuant to Rea 205.02, and that the hearing be re-scheduled for the March 18, 2014 Commission Meeting. Mr. Rice to be so notified.

The Commission Investigator Ann Flanagan requested that the Commission re-visit its October 19, 2010 decision regarding whether a licensee who is no longer in contract with a seller client still owes the duty of loyalty (RSA 331-A:25-b, I, (c) states confidentiality must be maintained); and whether a former contractual relationship with a seller client continues to prevent the licensee from representing a buyer potentially interested in that property. After review and discussion, the Commission decided that when a designated listing agent is going to be away and another agent is appointed to cover for the designated listing agent, the "covering" designated listing agent remains a designated listing agent as long as the real estate office has the listing and that if any such designated listing agent brings a buyer-client to that listing, then the agent would need to comply with regulations governing dual agency.

Attorney Allison Ambrose representing Respondent Ruth P. Mooney in File No. 2013-023 NH Real Estate Commission & Paul Berube v. Ruth P. Mooney, submitted a Memorandum of Law to support her Motion to Dismiss re: the exemption in RSA 331-A:4, and by letter questioned the potential effect of a permanent surrender of Respondent's real estate license if the proposed Consent Decree was accepted. After review and discussion, the Commission, on motion by Commissioner Barry, seconded by Commissioner Lipnick, denied the motion to dismiss because the definition of broker in RSA 331-A:2, III "or any person licensed under this chapter" makes clear that a licensee even in inactive status is subject to the regulations even if claiming exemption status; and that Respondent was "holding herself out as a real estate broker" pursuant to RSA 331-A:4, VII by using Realtor forms in the transaction making the exemption inapplicable. In regards to the proposed Consent Decree, the Commission removed the word "permanently" from the proposed Consent Decree.

After discussion the Commission directed its Education Coordinator Fran West to notify all instructors to inform students that the use of electronic devices in class (including but not limited to) cell phones, text messaging, email, or internet (other than for emergency reasons pre-approved by instructor) would result in the denial of course credit for the student.

V. **PRE-HEARING CONFERENCE 9:30 AM**  
FILE NO. 2013-024 NEW HAMPSHIRE REAL ESTATE COMMISSION & ARTHUR TAYLOR  
VS PAUL SCHAEFER, JR. & AFFORDABLE PROPERTY MANAGEMENT, LLC

The following persons were present at the pre-hearing conference:

Commissioners: James Therrien (Presiding Commissioner), William Barry, and Paul Lipnick; David Dunn was recused and did not participate in the proceedings or discussion.

Evaluator: Commissioner Jones evaluated the above matter and was not present during the discussion.

Complainant: The NH Real Estate Commission through its Investigator Ann Flanagan

Attorney: Pro Se for Complainants

Attorney: Joseph Prieto for Respondent who was not present during the pre-hearing conference.

VI. OTHER BUSINESS

1. The Commission unanimously approved the following date for the March meeting:  
March 18, 2014 at 8:30 a.m.

2. CASE EVALUATIONS

(a) File No. 2014-003

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination of should be heard. In the alternative, the Commission decided to offer the Respondent a Settlement Agreement requiring the payment of a disciplinary fine of \$250 for each violation for a total of \$1,000 within 60 days of the effective date of the Agreement.

(b) File No. 2013-048

Evaluator: Commissioner Dunn

Determination: On motion by Commissioner Barry, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination of should be heard. In the alternative, the Commission decided to offer the Respondents a Settlement Agreement requiring the payment of a disciplinary fine of \$250 by each Respondent within 60 days of the effective date of the Agreement.

(c) File No. 2013-042

Evaluator: Commissioner Dunn

Determination: On motion by Commissioner Barry, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination that the matter should be tabled until after the March 18, 2014 hearing of File No. 2013-027.

3. SETTLEMENT AGREEMENTS

On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the following Settlement Agreement and is attached to the Minutes of this meeting:

FILE NO. 2013-033 NEW HAMPSHIRE REAL ESTATE COMMISSION VS COURTNEY M. PREVOST (Evaluator Commissioner Daniel S. Jones)

On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission determined to not accept the following Settlement Agreement unless the additional terms in Attorney John Bisson's cover letter are withdrawn in writing prior to March 3, 2014 or the matter would be scheduled for a hearing:

FILE NO. 2013-020 NEW HAMPSHIRE REAL ESTATE COMMISSION VS MARGHERITA VERANI & VERANI REALTY, INC. DBA: THE PRUDENTIAL VERANI REALTY (Evaluator Daniel S. Jones)

#### 4. COURSE ACCREDITATIONS AND RE-ACCREDITATIONS

The following continuing education courses were approved for accreditation by the Commission:

IRC 1031 TAX DEFERRED EXCHANGES Course Provider: Investment Property Exchange Services, Inc	1, 2, 3 HOURS
TITLE LAW IN NEW HAMPSHIRE Course Provider: NBI, Inc.	4 HOURS
REAL ESTATE TITLES AND REGISTRY RESEARCH 101 Course Provider: John Splendore	1 HOUR
INTRODUCTION TO COMMERCIAL REAL ESTATE SALES (Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
UNDERSTANDING TODAY'S INVESTORS (Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
INTRODUCTION TO MOLD AND MOLD REMEDIATION Course Provider: JP Pest Services	1 HOUR

The following continuing education courses were approved for re-accreditation by the Commission:

MOLD INSTRUCTION Course Provider: RJ Inspections, Inc.	1 HOUR
RADON SEMINAR Course Provider: RJ Inspections, Inc.	1 HOUR
HOME INSPECTION SEMINAR Course Provider: RJ Inspections, Inc.	1 HOUR
NH HOME INSPECTION LAW & PROCEDURES Course Provider: HI-NET Home Inspection	3 HOURS
FINANCING UPDATE 2014 Course Provider: Barbara Cunningham / Joseph Moriarty	3 HOURS
HOME INSPECTION 101 FOR REAL ESTATE PROFESSIONALS Course Provider: National Property Inspections, Inc.	1, 3 HOURS
PROPERTY CONDITION AND DISCLOSURE ISSUES	3 HOURS

Course Provider: John Doran

RISK REDUCTION THROUGH COMPLIANCE AND AWARENESS 3 HOURS

Course Provider: John Doran

BREAKING BARRIERS: FAIR HOUSING (Internet) 1 HOUR

Course Provider: The CE Shop, Inc.

FOUNDATIONS OF REAL ESTATE FINANCE (Internet) 3 HOURS

Course Provider: The CE Shop, Inc.

FROM CONTRACT TO KEYS: THE MORTGAGE PROCESS (Internet) 3 HOURS

Course Provider: The CE Shop, Inc.

CORE 3 HOURS

Course Provider: Don Turner

CORE 3 HOURS

Course Provider: Coldwell Banker Residential Brokerage

CORE 3 HOURS

Course Provider: Arthur Gary School of Real Estate

IT HAPPENED AT A CLOSING 3 HOURS

Course Provider: First American Title Insurance

TITLE INSURANCE – WHAT IS IT? 1, 2 HOURS

Course Provider: First American Title Insurance

OPTIMIZING THE FEATURES OF INNOVIA 3 HOURS

Course Provider: Dennis Power

LANDLORD-TENANT LAW LEASES, EVICTIONS, LITIGATION AND SETTLEMENTS

Course Provider: Sterling Education Services, Inc. 3 HOURS

REVERSE MORTGAGES 3 HOURS

Course Provider: Linda Rousseau

WHAT'S HAPPENING IN THE COURTS? 2, 3 HOURS

Course Provider: Kathy Roosa School of Real Estate

REAL ESTATE JEOPARDY III 2, 3 HOURS

Course Provider: Kathy Roosa School of Real Estate

MORTGAGE FRAUD AND PREDATORY LENDING: WHAT EVERY AGENT SHOULD KNOW (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
SUSTAINABLE HOUSING AND BUILDING GREEN (Class & Correspondence) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
TITLE INSURANCE FOR REAL ESTATE PROFESSIONALS (Class & Correspondence) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
EVERYTHING YOU WANTED TO KNOW ABOUT NEW HAMPSHIRE HOUSING Course Provider: New Hampshire Housing Finance Authority	1 HOUR
BASICS OF GREEN BUILDING FOR REAL ESTATE (Internet) Course Provider: McKissock, LP	1.5 HOURS
UNDERSTANDING RESPA & THE NEW HUD-1 (Internet) Course Provider: McKissock, LP	1.5 HOURS
TAX DEFERRED EXCHANGES Course Provider: Exchange Authority	1, 2 HOURS

The following continuing education courses were denied approval for accreditation by the Commission:

SAVING HOME ENERGY FOR REAL ESTATE PROFESSIONALS  
Course Provider: InterNACHI

HOME ENERGY SCORE FOR REAL ESTATE PROFESSIONALS  
Course Provider: InterNACHI

The following continuing education courses were denied approval for re-accreditation by the Commission:

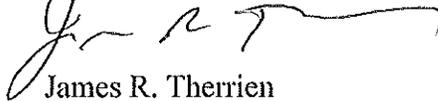
BASICS OF REAL ESTATE TAXATION  
Course Provider: The CE Shop, Inc

FORECLOSURES, SHORT SALES, REOS & AUCTIONS  
Course Provider: Dearborn Real Estate Education

IV. ADJOURNMENT

On a motion by Commissioner Therrien, seconded by Commissioner Barry, Acting Chairman David Dunn adjourned the meeting at 11:15 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. R. Therrien", with a long horizontal flourish extending to the right.

James R. Therrien  
Clerk

BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301

In the Matter of:

File No. 2013-033 NH Real Estate Commission v. Courtney M. Prevost

Allegations: RSA 331-A:26, III; RSA 331-A:26, XXXVII

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 Courtney M. Prevost ("the Licensee" or "the Respondent"), a real estate salesperson currently licensed by the Commission until August 27, 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 failed to disclose within 30 days to the Commission a conviction for Willful Concealment class B misdemeanor (\$320 fine) at Portsmouth District Court on December 17, 2012. Respondent did disclose the conviction on her NH Real Estate salesperson license renewal received at the Commission on August 23, 2013 (8 months after the conviction, rather than within 30 days as required). Respondent has held an active salesperson license since August 27, 2009.

2. The Respondent acknowledges and 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 submit a letter from Respondent's principal broker acknowledging Respondent's conviction for Willful Concealment within thirty (30) days of the effective date of this Settlement Agreement; and Respondent shall pay a disciplinary fine in the amount of two-hundred and fifty dollars (\$250) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within thirty (30) days 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 and the Commission receives a letter from the Respondent's principal broker acknowledging Respondent's conviction for Willful Concealment.
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, 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.

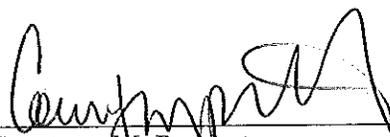
6. The Respondent voluntarily signs this Settlement Agreement and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
7. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.
8. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her 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 her right to a fair and impartial hearing in the future if this Agreement is not accepted by the Commission.
10. Respondent certifies that she has read this document titled Settlement Agreement. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her 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, she 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

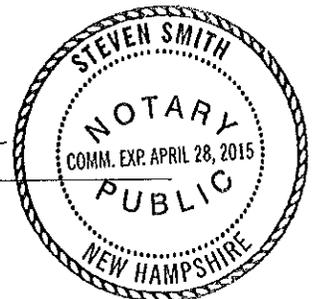
I, Courtney M. Prevost, have reviewed the forgoing Settlement Agreement settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this Settlement 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: 1/24/14, 2014  
  
\_\_\_\_\_  
Courtney M. Prevost  
Respondent

On this 24th day of January A.D. 20 14  
personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.

  
\_\_\_\_\_  
Justice of the Peace/Notary Public

My commission expires:  
Apr. 28 2015



For the Commission

Dated: February 18, 2014

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