

# NEW HAMPSHIRE REAL ESTATE COMMISSION

## COMMISSION MEETING

APRIL 15, 2014

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, April 15, 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 8:32 a.m. by Chairman Daniel Jones.  
Present: Commissioners Daniel Jones, David Dunn, William Barry, Paul Lipnick, and James Therrien.
- II. On motion by Commissioner Dunn, seconded by Commissioner Barry, the Commission approved the Minutes of the Commission meeting held on March 18, 2014.

### III. APPOINTMENTS

#### SHOW CAUSE HEARING

8:45 a.m. JASON M. BELL appeared before the Commission for a show cause hearing regarding his criminal history record submitted with his application for an original salesperson's license. Mr. Bell presented a letter to the Commission from the principal broker notifying the Commission that he is aware of Mr. Bell's criminal history record. After review and discussion, the Commission, on motion by Commissioner Lipnick, seconded by Commissioner Therrien, decided to allow Mr. Bell to apply for his original salesperson's license. Commissioner Barry was opposed to the decision.

#### SHOW CAUSE HEARING

8:50 a.m. FRANCIS J. LONDRES appeared before the Commission for a show cause hearing regarding his criminal history record submitted with his application for an original salesperson's license. Mr. Londres presented a letter to the Commission from the principal broker notifying the Commission that he is aware of Mr. Londres' criminal history record. After review and discussion, the Commission, on motion by Commissioner Therrien, seconded by Commissioner Barry, decided to allow Mr. Londres to apply for his original salesperson's license.

#### 8:53 a.m. – Equivalency Appointment – DIANE P. BILLESIMO

Ms. Billesimo appeared before the Commission to request that her real estate experience be approved as sufficient experience pursuant to RSA 331-A:10, II (c) and (g). After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Therrien, decided to approve Ms. Billesimo's real estate experience as sufficient experience pursuant to RSA 331-A:10, II (c) and (g).

#### SHOW CAUSE HEARING

9:06 a.m. STEPHEN R. CARROLL appeared before the Commission for a show cause hearing regarding his criminal history record submitted with his application for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Lipnick, decided to table its decision and requested Mr. Carroll to submit to the Commission three character references from individuals that can attest to Mr. Carroll's good moral character and trustworthiness. Mr. Carroll to be scheduled for a show cause

hearing once he submits the character references to the Commission as requested.

9:20 a.m. ANN FLANAGAN submitted a Request for Declaratory Ruling regarding Rea 404.04 and RSA 331-A:26, XXVI about the following:

1. Agent has an active listing with provisions to withhold from the market for a time, yet advertising the property as "Coming Soon" or "Pre-marketing Broker Open House".
2. Agent has a brokerage contract for property management but the seller has not sent an appraiser to set the price, yet advertising the property as "Coming Soon" (usually bank owned in this second scenario).

After review and discussion, the Commission determined that "Coming Soon" advertisement is permissible as long as the agent complies with Rea 404.04 prior to the advertising.

#### IV. DISCUSSION

DAVID LEPAGE appeared before the Commission at the March 18, 2014 meeting to request reinstatement of his lapsed real estate salesperson's license. At the March meeting, the Commission decided to allow Mr. Lepage to reinstate his lapsed salesperson's license once he submitted the application and fees, along with the following continuing education courses in addition to the 12 hours of required continuing education for renewal: one additional core course, agency course, and nine hours of elective courses, but did not provide a time period in which the license should be reinstated. After review and discussion, the Commission decided to allow Mr. Lepage 60 days from the date of this meeting to reinstate his lapsed license. Mr. LePage to be so notified.

FILE NO. 2013-027 New Hampshire Real Estate Commission v. Alan R. Rice – The Real Estate Commission conducted a hearing on File No. 2013-027 at its March 18, 2014 meeting. There was a malfunction with the recording of the hearing and only obtained a partial record of the hearing. The Commission sent a letter to Mr. Rice's attorney Matthew Johnson to allow for a re-hearing of File No. 2013-027 in order to obtain a complete record of the hearing. Attorney Johnson, on behalf of Alan Rice, submitted a request for a rehearing of File No. 2013-027, and to hold a pre-hearing conference prior to a rehearing of the matter. After review and discussion, the Commission decided that a pre-hearing on the matter should be held at the May meeting, and a hearing at the June meeting. Attorney Johnson to be so notified.

#### V. HEARING 10:04 AM

FILE NO. 2014-009 NEW HAMPSHIRE REAL ESTATE COMMISSION VS JAMES J. FLEMING

The following persons were present at the hearing:

Commission: Commissioners David Dunn, William Barry, and Paul Lipnick.

Evaluator: Commissioner Jones evaluated the above matter and abstained from participation in the discussion. Commissioner Therrien was recused and abstained from participation in the discussion.

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

Attorneys: Pro Se

Respondent: James J. Fleming

Attorney: Pro Se

Witnesses: Frances M. West

VI. **HEARING 10:34 AM**

FILE NO. 2013-045 NEW HAMPSHIRE REAL ESTATE COMMISSION VS JOSEPH P. ARMANO

The following persons were present at the hearing:

Commission: Commissioners David Dunn, Daniel Jones, William Barry, and James Therrien.

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

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

Attorneys: Pro Se

Respondent: Joseph P. Armano

Attorney: Pro Se

Witnesses: Laurel A. Untiet  
Sheila M. Haines  
Fran LeSaffre  
Harry Cheney

VII. **HEARING 12:23 PM**

FILE NO. 2013-046 NEW HAMPSHIRE REAL ESTATE COMMISSION VS ROBERT MACDONALD & BMB HOME INSPECTIONS, LLC DBA: OMNISPECT

The following persons were present at the hearing:

Commission: Commissioners David Dunn, Daniel Jones, and William Barry.

Evaluator: Commissioner Lipnick evaluated the above matter and abstained from participation in the discussion. Commissioner Therrien was recused and abstained from participation in the discussion.

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

Attorneys: Pro Se

Respondent: Robert MacDonald  
&  
BMB Home Inspections, LLC dba: Omnispect

Attorney: Pro Se

Witnesses: Frances M. West  
Joseph Armano

#### VIII. OTHER BUSINESS

1. The Commission unanimously approved the following date for the May meeting:

May 20, 2014 at 8:30 a.m.

#### 2. CASE EVALUATIONS

(a) FILE NO. 2013-038

Evaluator: Commissioner Therrien

Determination: On motion by Commissioner Dunn, seconded by Commissioner Barry, the Commission approved the evaluating commissioner's determination upon re-evaluation that there were no violations and the matter should not be heard.

(b) FILE NO. 2014-001

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Therrien, seconded by Commissioner Dunn, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondents in the alternative to a hearing.

(c) FILE NO. 2014-005

Evaluator: Commissioner Dunn

Determination: On motion by Commissioner Jones, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

- (d) FILE NO. 2014-007  
Evaluator: Commissioner Jones  
Determination: On motion by Commissioner Barry, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination that there were no violations and the matter should not be heard.
- (e) FILE NO. 2014-011  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the evaluation commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.
- (f) FILE NO. 2014-012  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Dunn, seconded by Commissioner Jones, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.
- (g) FILE NO. 2014-015  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Dunn, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.
- (h) FILE NO. 2014-017  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Dunn, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.
- (i) FILE NO. 2014-022  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Dunn, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.
- (j) FILE NO. 2014-023  
Evaluator: Commissioner Barry  
Determination: On motion by Commissioner Dunn, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

(k) FILE NO. 2014-010

Evaluator: Commissioner Jones

Determination: On motion by Commissioner Barry, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination of no violations, should not be heard.

(l) FILE NO. 2014-014

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Therrien, seconded by Commissioner Dunn, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

(m) FILE NO. 2014-018

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Dunn, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

(n) FILE NO. 2014-019

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Dunn, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

(o) FILE NO. 2014-024

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Dunn, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

(p) FILE NO. 2013-042

Evaluator: Commissioner Dunn

Determination: On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination to schedule a pre-hearing conference in May, and schedule a hearing in June on the matter.

3. ORDERS

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

DOCKET NO. 2013-030 NEW HAMPSHIRE REAL ESTATE COMMISSION VS KENNETH J. SMITH

4. SETTLEMENT AGREEMENTS

The following Settlement Agreements were approved by the Commission and are attached to the Minutes of this meeting:

- (1) FILE NO. 2013-048 NEW HAMPSHIRE REAL ESTATE COMMISSION VS PETER J. BEAUCHEMIN & JOSEPH M. BEAUCHEMIN (Agreement for Peter Beauchemin)
- (2) FILE NO. 2013-048 NEW HAMPSHIRE REAL ESTATE COMMISSION VS PETER J. BEAUCHEMIN & JOSEPH M. BEAUCHEMIN (Agreement for Joseph Beauchemin)
- (3) FILE NO 2013-023 NEW HAMPSHIRE REAL ESTATE COMMISSION & PAUL BERUBE VS RUTH P. MOONEY

5. COURSE ACCREDITATIONS AND RE-ACCREDITATIONS

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

BASICS OF GREEN BUILDING FOR REAL ESTATE (Internet) Course Provider: American School of Real Estate Express	1 ½ HOURS
COMMERCIAL REAL ESTATE: FROM THE BEGINNING (Internet) Course Provider: American School of Real Estate Express	3 HOURS
FAIR HOUSING (Internet) Course Provider: American School of Real Estate Express	1 HOUR
MORTGAGES, LOANS AND LAWS – HOW THEY HELP YOUR CLIENT (Internet) Course Provider: American School of Real Estate Express	1 HOUR
WHAT REAL ESTATE PROFESSIONALS NEED TO KNOW ABOUT FHA (Internet) Course Provider: American School of Real Estate Express	1 HOUR
CLIENT AND TENANT PROPERTY DUE DILIGENCE Course Provider: NH CIBOR	2 HOURS
A CHANGING TIME IN REAL ESTATE Course Provider: Red Door Title, LLC	3 HOURS
REAL ESTATE SAFETY: PROTECT YOURSELF DURING A SHOWING (Internet) Course Provider: American School of Real Estate Express	1 ½ HOURS

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

A NEW LOOK AT CONTRACT LAW (Internet)  
Course Provider: American School of Real Estate Express

NICHE MARKETING: NARROW YOUR FOCUS (Internet)  
Course Provider: American School of Real Estate Express

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

ENVIRONMENTAL ISSUES IN YOUR REAL ESTATE PRACTICE V5.0 3 HOURS  
(Internet)  
Course Provider: Dearborn Real Estate Education

FAIR HOUSING V4.0 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

INTRODUCTION TO COMMERCIAL REAL ESTATE SALES V4.0 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

PROPERTY MANAGEMENT AND MANAGING RISK V4.0 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

REAL ESTATE FINANCE TODAY V7.0 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

RISK MANAGEMENT V4.0 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

RED FLAGS: PROPERTY INSPECTION GUIDE V4.5 (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

RESPA REFORM (Internet) 3 HOURS  
Course Provider: Career Webschool

CORE 3 HOURS  
Course Provider: Neal Barrett

RECENT CHANGES TO NH LICENSING LAWS & RULES 1 HOUR  
Course Provider: Neal Barrett

AGENCY IN NEW HAMPSHIRE Course Provider: Neal Barrett	3 HOURS
INTRODUCTION TO COMMERCIAL LEASING Course Provider: Neal Barrett	3 HOURS
FUNDAMENTALS OF COMMERCIAL REAL ESTATE Course Provider: Neal Barrett	3 HOURS
AGENT/CLIENT RELATIONSHIP Course Provider: Neal Barrett	3 HOURS
BUYER AGENCY VS FACILITATOR Course Provider: Neal Barrett	3 HOURS
ZONING, PLANNING & OTHER LAND USE ISSUES Course Provider: Neal Barrett	3 HOURS
CODE OF ETHICS Course Provider: Neal Barrett	3 HOURS
10 ESSENTIAL TOPICS IN REAL ESTATE Course Provider: Neal Barrett	3 HOURS
AGENCY & BROKERAGE IN THE NEXT DECADE Course Provider: Neal Barrett	3 HOURS
UNDERSTANDING THE PURCHASE & SALES AGREEMENT Course Provider: Neal Barrett	3 HOURS
WEB RESOURCES FOR REAL ESTATE AGENTS Course Provider: Neal Barrett	3 HOURS
DISCLOSED DUAL AGENCY Course Provider: Neal Barrett	3 HOURS
DESIGNATED AGENCY & FACILITATOR Course Provider: Neal Barrett	3 HOURS
CORE Course Provider: John Doran	3 HOURS

THE SALES AGREEMENT – IT’S YOUR MAP! Course Provider: John Doran	3 HOURS
THE VALUE OF ETHICS Course Provider: John Doran	3 HOURS
CLIENT ORIENTED NEGOTIATING Course Provider: John Doran	3 HOURS
ABCs OF MORTGAGE LENDING Course Provider: Carol Jordan/Renee Duval	2 HOURS
USDA RURAL DEVELOPMENT Course Provider: Carol Jordan/Renee Duval	1 HOUR
RESIDENTIAL MORTGAGE LOAN MARKET TODAY Course Provider: Coldwell Banker Residential Brokerage	3 HOURS
RESIDENTIAL NEW CONSTRUCTION Course Provider: Coldwell Banker Residential Brokerage	3 HOURS
CORE Course Provider: Kathy Roosa School of Real Estate	3 HOURS
ANTITRUST Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
BUYER AGENCY Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
CODE OF ETHICS Course Provider: Kathy Roosa School of Real Estate	3 HOURS
FAIR HOUSING & THE ADA Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
KNOW YOUR CONTRACTS Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
LET’S TALK AGENCY Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS

MAKING THE SALE Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
REAL ESTATE LAWS, REGULATIONS & PRACTICES Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
RISK MANAGEMENT Course Provider: Kathy Roosa School of Real Estate	3 HOURS
WHAT WOULD YOU DO IN THIS SITUATION AND WHY? Course Provider: Kathy Roosa School of Real Estate	2 AND 3 HOURS
PROPERTY MANAGEMENT AND MANAGING RISCK (Correspondence) Course Provider: ABC Real Estate Training Institute	3 HOURS
RED FLAGS PROPERTY INSPECTION GUIDE (Correspondence) Course Provider: ABC Real Estate Training Institute	3 HOURS
CI 101: FINANCIAL ANALYSIS FOR COMMERCIAL INVESTMENT RE Course Provider: CCIM Institute	6 HOURS
CI 102: MARKET ANALYSIS FOR COMMERCIAL INVESTMENT RE Course Provider: CCIM Institute	6 HOURS
CI 103: USER DECISION ANALYSIS FOR COMMERCIAL INVESTMENT RE Course Provider: CCIM Institute	6 HOURS
CI 104: INVESTMENT ANALYSIS FOR COMMERCIAL INVESTMENT RE Course Provider: CCIM Institute	6 HOURS
RESIDENTIAL REAL ESTATE BROKERAGE PROFESSIONAL ETHICS Course Provider: Anita Hill	2 HOURS
WHAT IT TAKES TO BE S.A.F.E. Course Provider: Barbara Cunningham/Joseph Moriarty	1 HOUR
BUYER REPRESENTATION IN REAL ESTATE (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
FAIR HOUSING (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS

THE TRUTH ABOUT MOLD (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
PROPERTY MANAGEMENT AND MANAGING RISK (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
REAL ESTATE FINANCE TODAY (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
RED FLAGS PROPERTY INSPECTION GUIDE (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
UNDERSTANDING 1031 TAX FREE EXCHANGES (Class, Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
KNOW THE CODE: REAL ESTATE ETHICS (Correspondence & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
RISK MANAGEMENT (Class & Internet) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
REVERSE MORTGAGES FOR SENIOR HOMEOWNERS (Class & Correspondence) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
PROPERTY DISCLOSURE: THE RE PROFESSIONALS' GUIDE TO REDUCING RISK (Class Only) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
KNOW THE CODE: REAL ESTATE ETHICS (Class Only) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
CORE (Class, Correspondence & Computer-Based) Course Provider: Carl Ripaldi School of Real Estate	3 HOURS
CORE (Class, Correspondent & Computer-Based) Course Provider: Aldrich & Associates	3 HOURS
ANALYSIS OF FIRST-TIME HOMEBUYER PROGRAMS Course Provider: Residential Mortgage Services	3 HOURS

COMPREHENSIVE FHA PURCHASE & REHABILITATION FINANCING Course Provider: Residential Mortgage Services	3 HOURS
IMPACT OF CREDIT ON THE BUYING PROCESS Course Provider: Residential Mortgage Services	3 HOURS
NH DESIGNATED AGENCY Course Provider: Coldwell Banker Residential Brokerage	3 HOURS
1031 TAX DEFERRED EXCHANGES – BASIC Course Provider: Arthur Gary School of Real Estate	3 HOURS
1031 TAX DEFERRED EXCHANGES – ADVANCED Course Provider: Arthur Gary School of Real Estate	3 HOURS
CYA (COVER YOUR ASPIRATIONS) Course Provider: Arthur Gary School of Real Estate	3 HOURS
DEEDS, DESCRIPTIONS AND DUE DILIGENCE Course Provider: Arthur Gary School of Real Estate	3 HOURS
DUE DILIGENCE IN BUYER BROKERAGE Course Provider: Arthur Gary School of Real Estate	3 HOURS
SELLER BROKERAGE IN A WORLD OF BUYER BROKERAGE Course Provider: Arthur Gary School of Real Estate	3 HOURS
THE A-Zs OF REAL ESTATE LOAN PROCESSING Course Provider: Arthur Gary School of Real Estate	3 HOURS
WIDEN YOUR VISION WHEN YOU LIST AND SELL REAL ESTATE Course Provider: Arthur Gary School of Real Estate	3 HOURS
WHAT SHOULD I DO IN THIS SITUATION? Course Provider: Arthur Gary School of Real Estate	3 HOURS
RED FLAGS PROPERTY INSPECTION GUIDE (Correspondence) Course Provider: Arthur Gary School of Real Estate	3 HOURS
REAL ESTATE FINANCE TODAY (Correspondence) Course Provider: Arthur Gary School of Real Estate	3 HOURS

THE TRUTH ABOUT MOLD (Correspondence) 3 HOURS  
Course Provider: Arthur Gary School of Real Estate

UNDERSTANDING 1031 TAX FREE EXCHANGES (Correspondence) 3 HOURS  
Course Provider: Arthur Gary School of Real Estate

APPRAISAL PROCESS 2 HOURS  
Course Provider: ABC Real Estate Training Institute

ARCHITECTURE (Class & Internet) 2 HOURS  
Course Provider: ABC Real Estate Training Institute

SELLING HISTORIC PROPERTIES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

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

AGENCY 2 HOURS  
Course Provider: ABC Real Estate Training Institute

FAIR HOUSING 2 HOURS  
Course Provider: ABC Real Estate Training Institute

FEDERAL WETLAND PROTECTION ACT 2 HOURS  
Course Provider: ABC Real Estate Training Institute

FORECLOSURES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

LANDLORD/TENANT ISSUES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

LEAD PAINT ISSUES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

PROPERTY MANAGEMENT 2 HOURS  
Course Provider: ABC Real Estate Training Institute

REAL ESTATE FINANCING 2 HOURS  
Course Provider: ABC Real Estate Training Institute

REAL ESTATE LICENSE LAW 2 HOURS  
Course Provider: ABC Real Estate Training Institute

RESIDENTIAL NEW CONSTRUCTION 2 HOURS  
Course Provider: ABC Real Estate Training Institute

SEPTIC SYSTEMS 2 HOURS  
Course Provider: ABC Real Estate Training Institute

SUPERFUND 2 HOURS  
Course Provider: ABC Real Estate Training Institute

ZONING AND BUILDING CODES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

The following continuing education course was approved for increased hours by the Commission:

CLOSING AND CONVEYANCES 3 HOURS  
Course Provider: John Bielagus

The following pre-licensing courses were approved for re-accreditation by the Commission:

PRE-LICENSING 40 HOURS  
Course Provider: Neal Barrett

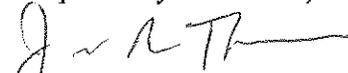
PRE-LICENSING 40 HOURS  
Course Provider: Kathy Roosa School of Real Estate

COMMISSIONER LIPNICK LEFT THE MEETING AT 2:25 PM AND WAS NOT PRESENT FOR THE REMAINDER OF THE MEETING

IX. **ADJOURNMENT**

On a motion by Commissioner Barry, seconded by Commissioner Therrien, Chairman Daniel Jones adjourned the meeting at 2:45 p.m.

Respectfully submitted,



James R. Therrien  
Clerk

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

In The Matter Of: Docket No.: 2013-030  
New Hampshire Real Estate Commission v. Kenneth J. Smith  
License No.: 042393  
(Adjudicatory/Disciplinary Proceeding)

**AMENDED ORDER**

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Kenneth J. Smith ("Respondent" or "Mr. Smith") in Docket Number 2013-030.

**Background Information:**

Respondent had been listing and selling properties under the name of Mid-State Realty without registering the firm name with the NH Secretary of State or registering or licensing Mid-State Realty with the NH Real Estate Commission. Subsequent to an investigation, on September 24, 2013, the Commission issued a Notice of Hearing for a hearing scheduled for November 19, 2013.

On Tuesday, November 19, 2013, at 9:40 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present<sup>1</sup> were:

David C. Dunn, Commissioner, Presiding Officer  
William E. Barry, Commissioner  
Paul A. Lipnick, Commissioner  
James R. Therrien, Commissioner

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Mr. Smith was pro se.

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

- Complainant Investigator Flanagan's Exhibits:  
Exhibit #1 - Complaint File 2013-030: pages 1-36.

---

<sup>1</sup> These same Commission members also deliberated and voted on this Final Decision and Order.

Exhibit #2 – Mid-State Realty, Inc. registration with the NH Secretary of State,  
pages 1-6

- 
- The Respondent's exhibits: none were introduced.

There were no witnesses present at the hearing:

**Findings of Fact:**

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

1. Respondent was first issued a license as a real estate salesperson from the Commission on February 13, 1992, and first issued a license as a real estate broker on July 1, 1994. At the time of the allegations, Respondent was licensed as a real broker, license #042393, in active status with a license period of September 14, 2012 – July 1, 2014.
2. Respondent had been listing and selling properties under the name of Mid-State Realty without first registering the firm name with the NH Secretary of State or registering or licensing Mid-State Realty with the NH Real Estate Commission.
3. Respondent had filed and incorporated Mid-State Realty, Inc. with the NH Secretary of State on August 11, 1995, and dissolved Mid-State Realty, Inc. on November 3, 1997. (Ex. 2, page 1)
4. Mid-State Realty, LLC was filed by Julia L. Smith with the NH Secretary of State on March 17, 2009 with a trade name Mid-State Realty filed with the NH Secretary of State on April 14, 2009.
5. Mid-State Realty, LLC dba: Mid-State Realty is currently registered with the NH Secretary of State and is licensed with the Commission by real estate broker Julia Smith. Ms. Smith did not give Respondent permission to use the trade name Mid-State Realty and is upset that Respondent was using the name when she had it legally registered and licensed.

6. Ms. Smith contacted the Commission because Respondent would not stop using Mid-State Realty after she first contacted Respondent directly.

7. Respondent, as Mid-State Realty listed 44 & 48 Clearview Drive, Loudon, NH (MLS #s 4241787 & 4241781); and Respondent as Mid-State Realty sold listings including 11 Hammond Road, Gilford, NH (MLS #4184731); 225 Mountain Road, Concord, NH (MLS #4195499); and 53 Lawndale Avenue, Nashua, NH (MLS #4122409). (Ex. 1, pages 21-28)

8. Respondent stated in his response (Form 11-A) to the Complaint and testified at the hearing that he made two requests to the Northern New England Real Estate Network (NNEREN), the multiple listing service where Respondent as Mid-State Realty had the following listings MLS #'s 4241787, 4241781, 4184731, 4195499, and 4122409, to remove the name Mid-State Realty from his name. (Ex. 1, pg. 34) Respondent testified that he was unable to remove the name, and only someone from NNEREN could remove it.

9. Respondent stopped using Mid-State Realty since receiving the Complaint from the Commission.

10. Respondent testified at the hearing that NNEREN required that he have a firm or trade name. When Respondent submitted a request to NNEREN to remove the name Mid-State Realty on August 5, 2013 from the multiple listing service, he requested the name be replaced with JNA Quality Homes. (Ex. 1, pg. 34) Respondent currently has JNA Quality Homes registered as a trade name with the NH Secretary of State with the purpose of business as a home builder. Respondent does not have the trade name JNA Quality Homes registered with the Commission.

11. On August 5, 2013, Respondent had the name Mid-State Realty removed from his listing for 48 Clearview Drive, Lot #25, Loudon, NH, and had the trade name JNA Quality Homes, which is not registered with the Commission, added to this listing. (Ex. 1, pg. 35)

12. Respondent in his response stated that he had not been involved in a transaction using Mid-State Realty in over 10 years. Respondent stated that he mainly does real estate

appraising and home building, and that the majority of real estate transactions he is involved in are homes he purchases, remodels, and sells under Ken Smith or JNA Quality Homes. (Ex. 1, page 31)

13. Respondent testified at the hearing that he should have been more active in having the name Mid-State Realty removed. Respondent stated that he is an appraiser, a builder, and buys and renovates homes, and doesn't actively list unless he has a friend who asks him to list their home, and did not think about removing the name Mid-State Realty.

14. Respondent testified that he never used Mid-State Realty in any transaction and he has always used Kenneth Smith or the trade name JNA Quality Homes in real estate transactions, on the purchase and sale agreements and HUD statements.

15. Respondent stated at the hearing that he did not understand why he couldn't use trade name JNA Quality Homes which is not registered with the Commission on listing agreements.

#### **Relevant Law:**

**RSA 331-A:1 Purpose.** It is the policy of this state to regulate the practice of real estate brokers and salespersons in order to ensure that they meet and maintain minimum standards which promote public understanding and confidence in the business of real estate brokerage.

#### **RSA 331-A:15 Issuance of License; Certificates.**

II. No license shall be issued to a broker doing business under a trade name unless and until such trade name is lawfully registered as provided in RSA 349.

#### **Rulings of Law:**

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

1. The Respondent was listing and selling properties under the name of Mid-State Realty without registering the company name with the NH Secretary of State or registering or licensing Mid-State Realty with the NH Real Estate Commission, and listing property under the trade name of JNA Quality Homes without registering the trade name with the Commission. Therefore, the Commission found Respondent in violation of RSA 331-A:15, II. (Notice of Hearing, paragraph 5A).

**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 must meaningfully complete and show proof of full attendance of 40 hours of New Hampshire Real Estate Commission accredited continuing education courses, including the following 9 hours of courses, Property Disclosure, Buyer's Representation, and the Core course, and 31 hours of Commission accredited elective courses by submitting to the Commission affidavits of completed courses (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 for renewal of license) by November 1, 2014.

IT IS **FURTHER ORDERED** that failure to comply with this disciplinary Order will result in the suspension of Respondent's real estate license until the course is completed.

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

*4/15/2014*  
Date

*Wm. E. Barry*

William E. Barry, Commissioner

*4/15/2014*  
Date

*James R. Therrien*

James R. Therrien, Commissioner

*4/15/2014*  
Date

*Paul A. Lipnick*

Paul A. Lipnick, Commissioner

*4/15/2014*  
Date

\*\ Daniel S. Jones, Commission member, (case evaluator) recused.

BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301

In the Matter of:

File No. 2013-048     NH Real Estate Commission v. Peter J. Beauchemin & Joseph M.  
Beauchemin  
Allegations:         RSA 331-A:26, XXVII

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 Joseph M. Beauchemin (“the Licensee” or “the Respondent”), a real estate broker currently licensed by the Commission until May 11, 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 Peter Beauchemin advertised his services as a real estate licensee on his website <http://www.manchesternhmls.com> (12/10/13 printout) using his direct phone number (603-488-6236) without also including and identifying the office phone number (603-472-3900). Respondent Joseph Beauchemin is the principal broker of Synergy Real Estate LLC dba RE/MAX Synergy, and has failed to adequately supervise the advertising activities of Respondent Peter Beauchemin.

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 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 sixty (60) 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 Joseph M. Beauchemin'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, 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/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.

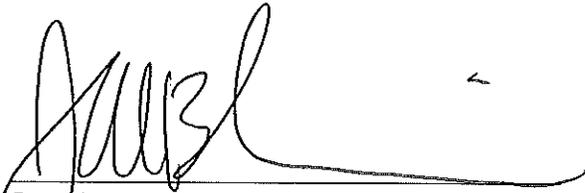
8. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this Agreement.
9. Respondent understands that the Commission must review and accept the terms of this Agreement. If the Commission rejects any portion, the 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

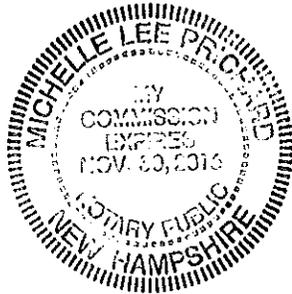
I, Joseph M. Beauchemin, have reviewed the forgoing Settlement Agreement settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and

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: 3.20.2014, 2014

  
Joseph M. Beauchemin  
Respondent

On this 20<sup>th</sup> day of March A.D. 2014  
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

My commission expires:

11.30.2016

For the Commission

Dated: April 15<sup>th</sup>, 2014

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

BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301

In the Matter of:

File No. 2013-048     NH Real Estate Commission v. Peter J. Beauchemin & Joseph M.  
Beauchemin

Allegations:         RSA 331-A:16, IV

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 Peter J. Beauchemin (“the Licensee” or “the Respondent”), a real estate salesperson currently licensed by the Commission until August 16, 2014, 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 Peter Beauchemin advertised his services as a real estate licensee on his website <http://www.manchesternhmls.com> (12/10/13 printout) using his direct phone number (603-488-6236) without also including and identifying the office phone number (603-472-3900).

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 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 sixty (60) 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 Peter J. Beauchemin'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, 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/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.

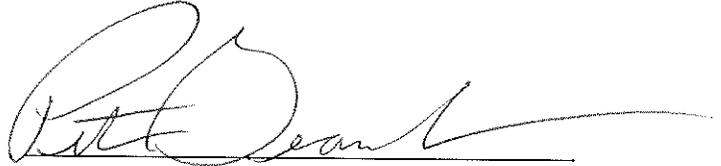
For the Respondent

I, Peter J. Beauchemin, 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



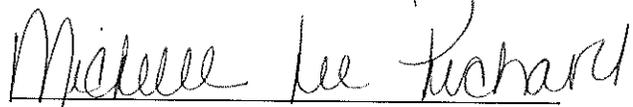
findings and conclusions with regard to the allegations, which have been settled by the terms of this Settlement Agreement.

Dated: March 20, 2014

  
Peter J. Beauchemin  
Respondent

On this 20<sup>th</sup> day of March A.D. 2014  
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

My commission expires:

11.30.2016

Dated: April 15<sup>th</sup>, 2014

For the Commission

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

BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301

In the Matter of:

File No. 2013-023 NH Real Estate Commission & Paul Berube v. Ruth P. Mooney

Allegations: RSA 331-A:12-a, I; RSA 331-A:25-b, II, a; RSA 331-A:26, IV; RSA 331-A:26, V; RSA 331-A:26, XVI; RSA 331-A:26, XXVI; RSA 331-A:26, XXIX; RSA 331-A:26, XXXVI; Rea 701.01; Rea 701.02

CONSENT DECREE

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 Ruth P. Mooney (“the Licensee” or “the Respondent”), a real estate salesperson currently licensed by the Commission until October 2, 2014, 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 impose disciplinary sanctions against the Respondent pursuant to RSA 331-A:29, I and RSA 541-A:31, V, based on the following allegations:

Respondent has an inactive New Hampshire real estate salesperson license. Respondent is alleged to have misrepresented to Paul and Joanne Berube (“buyers”) that she was an active licensed real estate agent by using a NH Association of Realtors® Standard Form - Purchase and Sales Agreement and Deposit Receipt form in the transaction. Respondent did not provide certain required property disclosures in the transaction.

Respondent did not provide a NH Brokerage Relationship Disclosure form to the buyers or to the seller.

2. After the conduct of a hearing by the Commission, 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 five-hundred dollars (\$500) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire; and Respondent shall agree to surrender her New Hampshire real estate license within thirty (30) days of the effective date of this Settlement Agreement.
3. 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.
4. 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.
5. The Respondent voluntarily signs this Consent Decree and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
6. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.

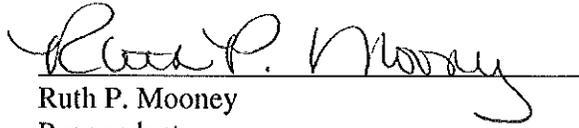
7. Respondent has had the opportunity to seek and obtain the advice of an attorney of her/his choosing in connection with her/his decision to enter into this Agreement.
8. Respondent understands that the Commission must review and accept the terms of this Agreement. If the Commission rejects any portion, 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.
9. Respondent certifies that she has read this document titled Consent Decree. Respondent understands that she has the right to an appeal to the Superior Court of any decision rendered by the Commission if this Consent Decree was not entered. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this Agreement, she/he waives these rights as they pertain to the misconduct described herein.
10. 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

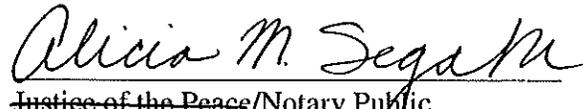
I, Ruth P. Mooney, have reviewed the forgoing Consent Decree settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, agree to all of the terms of this Consent Decree. Further, I knowingly and freely waive 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: MARCH 25<sup>th</sup>, 2014

  
Ruth P. Mooney  
Respondent

On this 25<sup>th</sup> day of MARCH A.D. 2014  
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:

ALICIA M. SEGALINI, Notary Public  
My Commission Expires April 28, 2015

Dated: April 15<sup>th</sup>, 2014

For the Commission

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