

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

SEPTEMBER 15, 2015

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, September 15, 2015 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 Chairman Daniel Jones.
Present: Commissioners Daniel Jones, John Cronin, William Barry, Calley Milne, and Paul Lipnick.
- II. On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission approved the Minutes of the Commission meeting held on August 18, 2015.
- III. **APPOINTMENTS**
8:49 a.m. ADAM DEAN appeared before the Commission to request that, as the principal broker of the Bean Group, be allowed to manage the firm office located in Portsmouth, NH and also be the managing broker of the Bedford, NH branch office. Mr. Dean explained to the Commission that the managing broker that was at the Bedford branch office resigned and he would like to be allowed to temporarily manage this office for 6 months until he finds a managing broker for this office. He stated that he resides in Newmarket, NH which is about a 30 minute drive to the Portsmouth office and a 40 minute drive to the Bedford branch office, and that the Portsmouth office has 89 licensees licensed at this location, and 57 licensees at the Bedford branch office. After review and discussion, the Commission, on motion by Commissioner Cronin, seconded by Commissioner Barry, decided to allow Mr. Dean to manage the Portsmouth office and temporarily manage the Bedford branch office for 6 months from the date of this meeting, so that he is able to find a managing broker to manage the Bedford branch office.

9:05 a.m. ANN O'HARA BROWN appeared before the Commission to request reinstatement of her lapsed real estate broker's license as required by RSA 331-A:18, II. After review and discussion, the Commission, on motion by Commissioner Barry, seconded by Commissioner Cronin, decided to allow the reinstatement of Ms. Brown's lapsed broker's license pursuant to RSA 331-A:18, II, contingent upon receipt of an additional "core" course to be completed by classroom delivery, in addition to the required "core" for license renewal within 30 days of the date of this meeting. This "core" course is required to be completed with a different "core" instructor from the course completed for license renewal.

9:17 a.m. JOHN MCINNIS appeared before the Commission to request reinstatement of his lapsed real estate salesperson's license as required by RSA 331-A:18, II. After review and discussion, the Commission, on motion by Commissioner Cronin, seconded by Commissioner Barry, decided to allow the reinstatement of Mr. Mcinnis' lapsed salesperson's license pursuant to RSA 331-A:18, II, contingent upon receipt of required documentation to reinstate within 30 days of the date of this meeting.

IV. **DISCUSSION**

MICHAEL KEELER and STEVEN GRAY appeared before the Commission at the July 21, 2015 meeting to request that Mr. Gray be allowed to be issued a principal broker's license for a property management company and be able to continue to work for Michael Keeler, the principal broker for Coldwell Banker Residential Brokerage, as an associate broker. The Commission tabled its decision on the matter to discuss the issue further. After further review and discussion, the Commission, on motion by Commissioner Milne, seconded by Commissioner Cronin, denied the request where RSA 331-A does not allow a licensee to hold a principal broker license at one firm and hold an associate broker at another firm. Commissioner Barry was opposed to the decision. Mr. Keeler and Mr. Gray to be so notified.

JOHN HAMRICK submitted a request for Mary O'Toole, an associate broker at Peabody & Smith Realty in Franconia to also be allowed to be the principal broker of O'Toole Enterprises, LLC, also located in Franconia so that Mr. Hamrick can hang his salesperson's license under Ms. O'Toole's license. After review and discussion, the Commission, on motion by Commissioner Milne, seconded by Commissioner Cronin, denied the request where RSA 331-A does not allow a licensee to hold a principal broker license at one firm and hold an associate broker license at another firm. Commissioner Barry was opposed to the decision. Mr. Hamrick to be so notified.

RSA 331-A:22-a Practice by Brokers of Other Jurisdictions – the Commission discussed proposed amended language to RSA 331-A:22-a submitted by the NH Realtors. After review and discussion, the Commission decided to submit the amended language to Legislature for legislative change.

V. **OTHER BUSINESS**

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

October 20, 2015 at 8:30 a.m.

2. ORDERS

The following Order was issued by the Commission:

DOCKET NO. 2014-064 NEW HAMPSHIRE REAL ESTATE COMMISSION VS STEVEN
B. GRAY

3. SETTLEMENT AGREEMENTS

The following Settlement Agreement was approved by the Commission:

FILE NO. 2015-024 NEW HAMPSHIRE REAL ESTATE COMMISSION VS GRACIELA
BEAUDRY & JOSEPH M. BEAUCHEMIN (Agreement for Joseph Beauchemin)

VI. **NON-PUBLIC MEETING**

On motion by Commissioner Cronin, seconded by Commissioner Milne, the Commission adjourned

the meeting and went into a non-public meeting pursuant to RSA 91-A:3, II-c at 10:20 a.m.

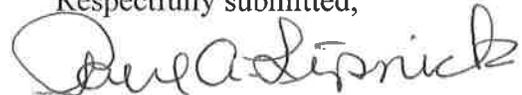
VII. **PUBLIC MEETING RECONVENED 11:00 AM**

On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission voted to seal the Minutes of non-public meeting at 11:00 a.m.

VIII. **ADJOURNMENT**

On a motion by Commissioner Cronin, seconded by Commissioner Barry, Chairman Daniel Jones adjourned the meeting at 11:05 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul A. Lipnick". The signature is written in a cursive style with a large initial "P".

Paul A. Lipnick
Clerk

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

In The Matter Of:

Docket No.: 2014-064

New Hampshire Real Estate Commission v. Steven B. Gray

License No.: 004592

(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Steven B. Gray ("Respondent" or "Mr. Gray") in Docket Number 2014-064.

Background Information:

Respondent was the principal broker for William Raveis Curry Realtors and failed to exercise reasonable supervision over Sharon Wells, a real estate salesperson working for William Raveis Curry Realtors, when she closed on two real estate transactions (MLS #'s 4346683 and 4373317) during December 2013 through December 2014 when her license was inactive. On December 24, 2014, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2014-064 against Respondent. Subsequent to an investigation, on April 2, 2015, the Commission issued a Notice of Hearing for a hearing scheduled for April 21, 2015.

On Tuesday, April 21, 2015, at 10:17 a.m., the Commission commenced the adjudicatory/disciplinary hearing in the above captioned matter. Commission members present were:

David C. Dunn, Former Commissioner, Presiding Officer
William E. Barry, Commissioner
Calley M. Milne, Commissioner
Paul A. Lipnick, Commissioner

The prosecution was conducted by Kinsman Corthell, the Commission's Investigator. Mr. Gray 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 2014-064, pages 1-56.
 - Exhibit #2 – MLS #4358400 – 58 Water Street, Meredith, NH.
 - Exhibit #3 – Copies of Steven B. Gray's wall licenses #0045492, effective dates November 8, 2001, December 1, 2003, and February 7, 2012.
 - Exhibit #4 – Copies of Susanne F. Bunker's wall license #068502, effective date November 22, 2013, Bradley S. Hunter's wall license #034734, effective date November 26, 2012, Sharon E. Wells' wall license #063750, effective date May 13, 2013, and Susan Hunter's wall license #048948, effective date October 15, 2012.
 - Exhibit #5 - Copies of checks issued by Sharon Well's check #101 dated 11/1/2013 for \$375.00 to William Raveis – Curry Realtors, check #124 dated 4/1/2014 for \$50.00 to Curry Realtors, check #137 dated 10/18/2014 for \$98.99 to Curry Realtors, and check #144 dated 12/2/2014 for \$157.11 to Curry Realtors.
 - Exhibit #6 – Submission of Sharon Wells expired wall license #063750 expiration date, March 19, 2015 to the Commission from Steven Gray received on April 13, 2015.
 - Exhibit #7 – William Raveis Curry Realtors Agent information from License 2000 and NNEREN Agent Lookup for Susan Noble and Lisa S. Small.

- The Respondent's exhibits introduced:

None.

The following witnesses were present and testified at the hearing:

- Belynda Littlefield, Administrative Assistant, William Raveis Curry Realtors
- Michelle Gelinias, License Clerk, NH Real Estate Commission
- Sharon Wells, real estate salesperson

Findings of Fact:

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

1. Respondent was first granted a license as a real estate salesperson by the Commission on June 6, 1985 and a real estate broker license on October 29, 1985, license #004592. Respondent is currently licensed with a license period of October 29, 2013 – October 29, 2015.
2. At the time of the allegations, Respondent was the principal broker of William Raveis Curry Realtors.
3. Respondent sent Sharon Wells' real estate salesperson's wall license #063750 back to the Commission with a letter from Respondent which was dated December 30, 2013 and received at the Commission Office on December 31, 2013, stating that Ms. Wells failed to pay her real estate dues. (Ex. 1, pgs. 4-5)
4. In December 2014, Belynda Littlefield from Respondent's real estate office called the Commission office to inquire why Sharon Wells' license was on inactive status, and spoke to Michelle Gelinis who indicated that Steven Gray sent the license back to the Commission a year ago, but never subsequently requested it to be re-issued. Sharon Wells' license was re-issued to Respondent on December 18, 2014 upon receiving an Amendment Notification/Change Request 5-RE Form from Respondent with the required \$20 amendment fee. (Ex. 1, pgs. 7-8)
5. The Commission Investigator Ann Flanagan spoke to Sharon Wells on December 23, 2014, who stated that she had no idea that her broker Mr. Gray had sent her license to the Commission, and when asked by Investigator Flanagan whether she had been practicing real estate during December 2013-December 2014 when she had no license, she stated she was practicing real estate because she didn't know her broker sent her license to the Commission, and that her license was in inactive status.
6. Respondent was required to submit evidence of Sharon Wells' real estate brokerage activities from January 1, 2014 through December 17, 2014 with his reply to the complaint. Respondent submitted with his reply, two closed transactions (MLS #'s 4346683 and 4373317) in

which Sharon Wells was involved in the transaction as a real estate agent during the time period that her license was in inactive status. Respondent's reply to the complaint indicated it was a "clerical error" in which Respondent's administrative assistant Belynda Littlefield takes full responsibility. Ms. Littlefield stated in a letter submitted with Respondent's reply that she emailed the Northern New England Real Estate Network (NNEREN) on Friday, January 3, 2014, and that she needed to "reverse everything she did on Monday" and to have Ms. Wells reinstated. Ms. Littlefield notes that she would have contacted the Commission by telephone to have Ms. Wells license reinstated. (Ex. 1, pgs. 10-14, 17-56)

7. In his response to the Complaint File No. 2014-064, Respondent stated he feels strongly that between himself and Ms. Littlefield they would have made it known to Ms. Wells that her license was sent back to the Commission. (Ex. 1, pg. 12)

8. Belynda Littlefield testified at the hearing that she had been working for Steven Gray at William Raveis Curry Realtors as the administrative assistant for the past 9 years.

9. Ms. Littlefield testified that in December 2013, Respondent checked to see if Ms. Wells paid her real estate dues for the year which was supposed to be paid by December 31st of each year. Ms. Littlefield stated that on December 30, 2013 Respondent instructed Ms. Littlefield to send Ms. Wells' license back to the Commission because she had not paid her real estate dues which were due on that Monday. Ms. Littlefield stated that she also contacted NNEREN to have Ms. Wells pulled out of the Multiple Listing Service (MLS), and then on Friday, January 3, 2014, Respondent informed Ms. Littlefield that Ms. Wells paid her dues and to get Ms. Wells' license back from the Commission. Ms. Littlefield stated that she contacted NNEREN on Friday, January 3, 2014 to have Ms. Wells placed back on the MLS, and is confident that she contacted the Commission to request Ms. Wells' license back, but she does not have any memory of contacting the Commission and no documentation to show that she contacted the Commission to request the license back. Ms. Littlefield stated that the e-mail she sent to NNEREN was submitted to the Commission with the Respondent's reply to the Complaint File No. 2014-064. (Ex.1, pg. 14)

10. Ms. Littlefield stated at the hearing that she doesn't have any memory or documentation of communicating to Ms. Wells that she sent her license back to the Commission in December 2013.

11. Ms. Littlefield testified that the licensing issues with Sharon Wells became known to Ms. Littlefield and Respondent in the middle part of December 2014, when she was filling out a form that lists the agents names and license numbers, she realized she didn't have a wall license for Ms. Wells, and at that time she went on the Commission website and saw that Ms. Wells' license was inactive. Ms. Littlefield stated that she contacted the Commission after she realized Ms. Wells' license was inactive and spoke with Laurel Untiet and that she stated that the license was sent back in 2013, and was told to send a \$20 amendment fee, along with the amended change, and contacted Sharon Wells to let her know that she needed to complete the amendment form and pay the \$20 amendment fee.

12. Commission employee Michelle Gelinis testified that if a license was sent back, the broker would be required to send a \$20 amendment fee to have the license back, because a new license would need to be reissued with a different effective date.

13. Mr. Gray stated at the hearing that he was responsible for hanging the agents' wall licenses. Mr. Gray stated that he didn't have standard procedures in place to ensure licensees had active licenses on the wall in the office and would randomly check licenses to make sure the licensees were active, and stated that he messed up on ensuring that Sharon Wells' license was active and hanging on the wall. Respondent stated that it was a team effort between him and the administrative staff to make sure licenses were active and on the office wall. Respondent stated he took no steps to make sure that Ms. Wells' license came back from the Commission in January 2014. Respondent stated that he expects licensees to make sure that they renew their licenses on time.

14. Investigator Corthell presented MLS #4358400 which was for a pending transaction for 58 Water Street, Meredith, NH in which Sharon Wells was the listing agent during the time that Ms. Wells' license was inactive, that Respondent failed to include when he was required to submit

any evidence of real estate brokerage activity by Ms. Wells during the time she was inactive with his response to Complaint File No. 2014-064. (Ex. 2, pgs. 1-2)

15. Investigator Corthell asked Respondent at the hearing if he recalls his principal broker license or the firm license to have ever expired. Respondent testified that he doesn't recall his license or the firm license ever expiring and does not recall ever having to cease all brokerage activity of the firm and licensees working for the firm due to expired licenses. Investigator Corthell introduced copies of Respondent's licenses that expired on October 29, 2001-November 8, 2001 and October 29, 2003-December 1, 2003, and the real estate firm license William-Ravies-Massachusetts, LLC which Respondent was the principal broker that was expired from November 10, 2011-2013. Investigator Corthell also introduced copies of licenses that expired that were licensed under Respondent's principal broker license; Susanne Bunker's license expired from May 22, 2013-November 22, 2013, Bradley Hunter's license expired from November 10, 2012-November 27, 2012, Sharon Wells' license expired from March 19, 2013-May 13, 2013, and Susan Hunter's license which expired from October 10, 2012-October 15, 2012. (Ex. 3, pgs. 1-3 & Ex. 4, pgs. 1-4).

16. Sharon Wells testified that she had been working for William Raveis Curry Realtors with Respondent as the principal broker since 2012. Ms. Wells testified that no one from William Raveis Curry Realtors contacted her regarding her license being in inactive status and was unaware her license was inactive as of December 2013 until sometime in December 2014 when Belynda Littlefield called her to ask her if she knew where her wall license was because it was not on the office wall. Ms. Wells stated that she never had her wall license, but did have her pocket license during the time period her license was inactive and was never asked to relinquish it. Ms. Wells testified that during the period in which she had an inactive license (December 2013-December 2014), she would have contact with Respondent once every couple months, and was compensated through Respondent for two transactions in the amount of \$11,000 during the period her license was inactive.

17. Ms. Wells testified that she paid NNEREN dues, Realtor dues, and member dues during the time that she was in inactive status. (Ex. 5, pgs. 1-4)

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:26 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. Respondent returned Sharon Wells' license to the Commission in December 2013, and requested his administrative assistant Belynda Littlefield to have Ms. Wells' license returned to William Raveis Curry Realtors from the Commission on January 3, 2014, but failed to ensure that her wall license was returned to the office and allowed Ms. Wells' to practice real brokerage activity from January 2014 – December 2014 with an inactive real estate license, and during this time period Ms. Wells closed on two real estate transactions (MLS #'s 4346683 and 4373317), and had one pending transaction (MLS # 4358400) Respondent had other instances in the past where licenses expired, including his own license and the firm license and had no office procedures or checks and balances to ensure that licensees working under his license were active and the wall licenses were hanging on the wall of the firm office; therefore, the Commission found the Respondent in violation of RSA 331-A:26, XXVII. (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 pay a disciplinary fine in the amount of two thousand dollars (\$2,000) 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 Order, and Respondent shall show proof of 6 hours of New Hampshire Real Estate Commission accredited continuing education course(s) on supervision/management by submitting to the Commission an affidavit for the completed course (this continuing education is to be completed by classroom delivery method only and is not to be counted towards the Respondent's continuing education requirements for renewal of license) within ninety (90) days of the effective date of this Order. Failure to comply with this Disciplinary Order will result in the suspension of Respondent's NH real estate license until the fine is paid and 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.

William E. Barry
William E. Barry, Commissioner

09/15/2015
Date

Calley M. Milne
Calley M. Milne, Commissioner

9-15-15
Date

Paul A. Lipnick

Paul A. Lipnick, Commissioner

9-15-15

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. 2015-024 NH Real Estate Commission v. Graciela Beaudry &
Joseph M. Beauchemin

Allegations: Joseph M. Beauchemin 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 Respondent" or "Respondent Beauchemin"), a real estate salesperson currently licensed by the Commission until May 11, 2017, 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:

Graciela Beaudry advertised New Hampshire properties and her services as a real estate licensee on a public sign without using her legal name or a reasonable derivative thereof. This public sign was being displayed at multiple properties. Respondent Joseph M. Beauchemin is the principal broker of Synergy Real Estate, LLC and failed to supervise the advertising activities of Graciela Beaudry.

RECEIVED

SEP 11 2015

NH REAL ESTATE COM

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 five-hundred dollars (\$500) 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.
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 him other than those terms and conditions expressly stated herein.

RECEIVED

SEP 11 2015

NH REAL ESTATE COMMISSION

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.

RECEIVED

SEP 11 2015

NH REAL ESTATE COMMISSION

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: Sept 8, 2015
Joseph M. Beauchemin
Respondent

On this 8th day of September A.D. 2015
personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.



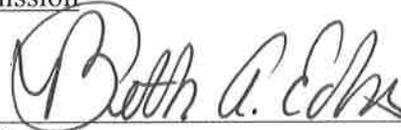
Michelle Lee Prichard
Justice of the Peace/Notary Public

My commission expires:
11.30.2016

RECEIVED
SEP 11 2015
NH REAL ESTATE COMMISSION

For the Commission

Dated: September 15, 2015



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

RECEIVED

SEP 11 2015

NH REAL ESTATE COMMISSION