

NEW HAMPSHIRE REAL ESTATE COMMISSION
DECLARATORY RULING
ON THE DEFINITION OF “REASONABLE SUPERVISION”
AS USED IN RSA 331-A:16, I-II AND RSA 331-A:26, XXVII

The Commission defines “reasonable supervision” as follows:

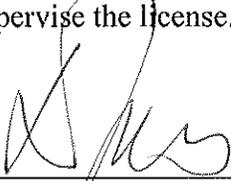
A. In accordance with RSA 331-A:16, I-II, each real estate office shall be supervised by a principal and/or managing broker. Such broker shall exercise reasonable supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to such office. The principal or managing broker may designate another licensee to assist in carrying out his/her supervisory duties, but such designation shall not relieve the principal or managing broker of responsibility for the supervision of the acts of all licensees and employees assigned to the office(s) that such broker is assigned to manage.

B. “Reasonable Supervision” by the principal or managing broker is hereby defined by the Commission to include but not necessarily be limited to:

1. Being available to all licensees and unlicensed staff under his/her supervision at reasonable times to review documents, including leases, contracts, brokerage agreements, and advertising as may affect the firm’s clients/customers and business;
2. Ensuring the availability of appropriate training opportunities for all licensees;
3. Ensuring that the office has written procedures and policies that provide clear guidance in the following areas:
 - a. Handling of escrow deposits in compliance with state law and commission regulations;
 - b. Complying with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;
 - c. Complying with advertising and marketing law and commission regulations;
 - d. Negotiating and drafting of contracts, leases, and brokerage agreements;
 - e. Exercising appropriate oversight and limitations on the use of unlicensed assistants, whether as part of a team arrangement or otherwise;
 - f. Creating, maintaining and terminating agency relationships and elements thereof;
 - g. Creating, maintaining and terminating independent contractor relationships and elements thereof;
 - h. Distributing information on new or amended laws or regulations; and
 - i. Disclosing required information relating to the physical condition of real property;
4. Providing resources so that brokerage services can be carried out competently and in accordance with the provisions of RSA Chapter 331-A and Commission regulations;
5. Maintaining the records required by this ruling for three years;
6. Maintaining adequate, reasonable, and regular contact with associated licensees engaged in real estate transactions so as to attempt to prevent or curtail practices by a licensee that would violate any provision of RSA Chapter 331-A, the commission regulations, or other state or federal laws applicable to real estate transactions; and

7. Being available to the public during normal business hours in order to discuss or resolve complaints and disputes which arise during the course of real estate transactions in which the managing broker or an associated licensee is involved.

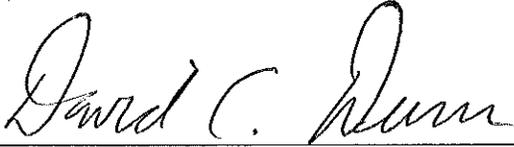
C. The fact that a licensee engages in conduct that violates RSA Chapter 331-A, commission regulations, or other state or federal laws applicable to real estate transactions, is not sufficient, without additional evidence that a principal or managing broker failed to comply with Part B of this Declaratory Ruling, to prove that a principal or managing broker has failed to reasonably supervise the licensee.



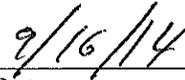
Daniel S. Jones, Commissioner



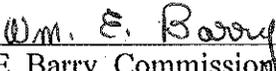
Date



David C. Dunn, Commissioner



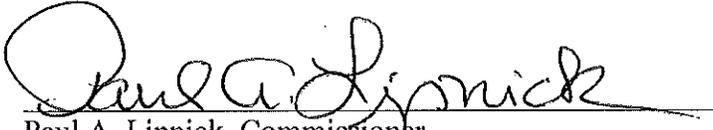
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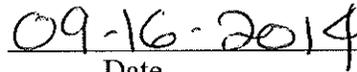
William E. Barry, Commissioner



Date



Paul A. Lipnick, Commissioner



Date

Commissioner James R. Therrien was recused from the discussion and decision of this Declaratory Ruling.