

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

In The Matter Of: Docket No.: 2013-022
New Hampshire Real Estate Commission v. Charles W. Katis
License No.: 064373
(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding in the Matter of Charles W. Katis ("Respondent" or "Mr. Katis") in Docket Number 2013-022.

Background Information:

On January 28, 2010, the Maine Real Estate Commission had issued an order of suspension of Respondent's Maine broker license for 90 days and a \$1,500 fine for falsifying continuing education on his Maine real estate broker license renewal application. Respondent on his Application for Renewal of Broker's License received at the New Hampshire Real Estate Commission on March 2, 2012, and on Respondent's previous Application for Renewal of Broker's License received on December 21, 2009, answered "No" to question #8: "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application?" On June 25, 2013, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2013-022 against Respondent. Subsequent to an investigation, on August 29, 2013, the Commission issued a Notice of Hearing for a hearing scheduled for October 15, 2013.

On Tuesday, October 15, 2013, at 9:55 a.m., the Commission commenced the adjudicatory/disciplinary hearing in the above captioned matter. Commission members present¹ were:

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

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

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Mr. Katis was present.

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

- Complainant Investigator Flanagan's Exhibits:
Exhibit #1 - Complaint File 2013-022: pages 1-28.

- The Respondent's exhibits:
Exhibit A – Letter from Respondent's bond company.

Witnesses: Constance Cho

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 broker from the Commission on September 20, 2007. At the time of the allegations, Respondent was licensed as a real estate broker, license #064373, in active status with a license period of March 2, 2012 – September 20, 2013. Respondent's broker license is currently in inactive status.

2. On January 28, 2010, the Maine Real Estate Commission issued an order of suspension of Respondent's Maine broker license for 90 days and a \$1,500 fine regarding Respondent falsifying continuing education on his Maine real estate broker license renewal application. (Ex. 1, pg. 20)

3. Respondent specifically checked the box that he had completed the terms of the continuing education requirements on his Maine renewal application, when at the time, he had obtained no hours of approved continuing education that he could document. (Ex. 1, pg. 18)

4. Respondent on his Application for Renewal of Broker's License received at the NH Real Estate Commission on March 2, 2012, and on Respondent's previous Application for Renewal of Broker's License received on December 21, 2009, answered "No" to question #8: "Have any

licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application?" (Ex. 1, pages 12 & 14)

5. Respondent stated in his response (Form No. 11-A) to the Complaint that when he completed his renewal application in 2012, he understood the language in question #8, "since last original or renewal" to mean since the time his license was renewed in 2010, and since the previous renewal cycle of his license was completed, he felt he truly had no recent disciplinary action in an other state since his last New Hampshire renewal. (Ex. 1, pg. 28)

6. Respondent stated in his response to the Complaint that he did not think that a situation from almost four (4) years prior would be relevant to affirm during his 2012 renewal process. (Ex. 1, pg. 27)

7. Complainant Investigator Flanagan asked the Respondent at the hearing why he answered "no" to question #8 on his Application for Renewal of Broker's License form received at the Commission office on March 2, 2012. Respondent explained that he was very confused about the words, "last original or renewal". Respondent stated he did not understand the words "last original", he thought the words were referring to his original application for license, and was looking at the period of 2007 through 2009.

8. Investigator Flanagan asked Respondent if he was reading the words as "last original and renewal", instead of "last original or renewal". The Respondent stated that he read the words as "last original and renewal".

9. Respondent testified that after he received the Complaint he spent 4 or 5 hours for two days in a row trying to figure out what he did wrong when he answered question #8 on his renewal application submitted in 2012.

10. Witness Constance Cho testified at the hearing that she was present with Respondent when he completed his renewal application in 2012 and she took 5-10 minutes to review his application to make sure that it was accurate and complete, and was present when Respondent was trying to figure out what he did wrong after receiving the Complaint.

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, Prohibited Conduct. – The following acts, conduct or practices are prohibited, and any licensee found guilty after a hearing shall be subject to disciplinary action as provided in RSA 331-A:28:

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

Rea 401.01 Renewals of License.

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

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

Rulings of Law:

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

1. The Respondent's explanations in his response to the Complaint and through his testimony at the hearing on why he answered "no" to question #8 on his NH broker renewal application completed in 2012 were found to be inconsistent and confusing and not to be credible. Therefore, the Commission unanimously found that Respondent concealed and failed to disclose the information regarding his disciplinary action he received from the Maine Real Estate Commission on January 28, 2010 when he completed his renewal application and obtained his license in 2012 in violation of RSA 331-A:26, I, and Rea 401.01(a)(21). (Notice of Hearing, paragraph 5)

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 five hundred dollars (\$500) for each violation for a total of one thousand dollars (\$1,000) to the NH Real Estate Commission, payable to the Treasurer State of New Hampshire within six (6) months of the effective date of this Order. Commissioner Barry was opposed to the disciplinary fine imposed.

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 fine is paid.

IT IS FURTHER ORDERED that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

IT IS 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, Commissioner, Presiding Officer

12/10/2013
Date



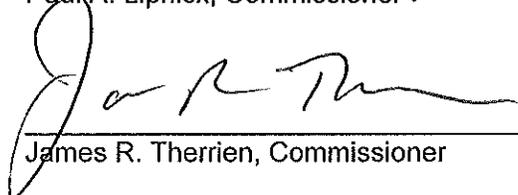
William E. Barry, Commissioner

12/10/2013
Date



Paul A. Lipnick, Commissioner

12-10-2013
Date



James R. Therrien, Commissioner

12-10-2013
Date

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