

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION  
STATE OF NEW HAMPSHIRE  
DIVISION OF TECHNICAL PROFESSIONS

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PETER DANLES  
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January 18, 2017

David V. Scher  
2193 Commonwealth Ave #200  
Boston, MA 02215

**Re: Docket No: 2016-045 New Hampshire Real Estate Commission v. David V. Scher**

Dear Mr. Scher:

The New Hampshire Real Estate Commission conducted a hearing on the above captioned matter on Tuesday, October 18, 2016 at 121 South Fruit Street, Room #119 in Concord, New Hampshire.

Commissioner William E. Barry evaluated the case and did not take part in this hearing or decision.

The enclosed Order was issued by the Commission on January 17, 2017.

Sincerely,

A handwritten signature in cursive script that reads "Sheila Haines".

Sheila Haines  
Administrative Assistant

Sent via USPS certified mail

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

**In The Matter Of:** **Docket No.: 2016-045**  
**New Hampshire Real Estate Commission v. David V. Scher**

License Nos.: 060977  
(Adjudicatory/Disciplinary Proceeding)

**FINAL DECISION AND ORDER**

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of David V. Scher ("Respondent" or "Mr. Scher") in Docket Number 2016-045.

**Background Information:**

The Commission's Investigator Kinsman Corthell received notice from the Massachusetts Board of Registration of Real Estate Brokers and Salespersons that a Temporary Order of Suspension and Notice of Hearing were issued on June 17, 2016 to David E. Scher. Subsequent to an investigation of Respondent's alleged conduct in Massachusetts and in New Hampshire, the Commission determined that the health, safety and welfare of the public necessitated the immediate suspension of Respondent's New Hampshire broker license #060977, effective September 12, 2016, and issued an Order of Immediate Suspension and Notice of Hearing on September 14, 2016 alleging violations of RSA 331-A:17; RSA 331-A:26, I, II, III, IV, V, XXIX, XXXVI, and XXXVII. On September 20, 2016, the Commission conducted a hearing on the Emergency Immediate Suspension for Docket No. 2016-045 NH Real Estate Commission v. David V. Scher and issued an Order of Immediate Suspension on September 22, 2016. On Tuesday, October 18, 2016, at 11:25 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present<sup>1</sup> were:

John G. Cronin, Esquire, Presiding Officer

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

Daniel S. Jones, Commissioner  
William E. Barry, Commissioner  
Calley M. Milne, Commissioner  
Paul A. Lipnick, Commissioner

The prosecution was conducted by Kinsman Corthell, the Commission's Investigator. Mr. Scher was not present at the hearing.

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

- Complainant Investigator Corthell's Exhibits:

Exhibit #1 – Respondent's original NH broker's license #060977 issued through reciprocity on 5/5/2005.

Exhibit #2 – Respondent's renewal broker license applications from 2007- 2015.

Exhibit #3 – Respondent's Application for Renewal of Broker's License received at the Commission office on October 31, 2011.

Exhibit #4 – Respondent's Application for Renewal of Broker's License received at the Commission office on August 26, 2015.

Exhibit #5 – Indictments issued to Respondent by the Massachusetts Suffolk Superior Court on March 9, 2016.

Exhibit #6 – Indictments issued to Respondent by the Massachusetts Suffolk Superior Court on May 6, 2016.

Exhibit #7 – Massachusetts Board of Registration of Real Estate Brokers and Salespersons Temporary Order of Suspension and Notice of Hearing issued to the Respondent on June 17, 2016.

Exhibit #8 – Massachusetts Board of Registration of Real Estate Brokers and Salespersons' Decision of Continuation of Summary Suspension of Respondent's Massachusetts License Nos. #9070454-RE-B, 9038798-S (exp. 11/3/04), 7000-C, and 676-SI.

Exhibit #9 – Respondent's Amendment Notification/Change Request Form notifying of name change from David E. Scher to David V. Scher received at the Commission

on July 28, 2016.

Exhibit #10 – NH Application for Renewal of Broker's license on August 26 2015.

Exhibit #11 – Final Decision and Order from the Massachusetts Board of Registration of Real Estate Brokers and Salespersons.

Exhibit 12 - Order of Immediate Suspension and Notice of Hearing for a hearing scheduled for October 18, 2016 sent to Respondent by US Certified Mail 70060810000324155693 on September 22, 2016.

- Respondent exhibits introduced

None.

There were no witnesses present to testify at the hearing.

#### Findings of Fact:

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

1. The Respondent failed to appear at the Real Estate Commission hearing scheduled for October 18, 2016 at 11:00 a.m. The Order of Immediate Suspension and Notice of Hearing was deposited for delivery by U.S. Certified Mail #70060810000324155693 on September 22, 2016. Notice of this Certified Mail was left by the U.S. Postal Service at Respondent's last resident address provided to the Commission on September 26, 2016, and a second notice was left on October 8, 2016. The Commission determined that proper notice as required by RSA 331-A:30 was provided to Respondent. In accordance with Rea 205.11, the presiding officer declared Respondent to be in default and proceeded to hear the testimony and receive the evidence offered by the party bearing the burden of proof in this case, the Complainant New Hampshire Real Estate Commission through its Investigator Kinsman Corthell. (Ex.12)
2. On May 5, 2005, the Commission issued a reciprocal New Hampshire real estate broker's license to David E. Scher, License #060977 based on Respondent's Massachusetts real estate

broker's license #9070454. Respondent currently holds an active NH broker's license #060977 under the name David V. Scher, dba: First Step Realty, with an expiration date of May 5, 2017.

(Exhibit 1)

3. Since Respondent's initial license period of May 5, 2005 – May 5, 2007 for license #060977, Respondent has allowed his license to expire prior to each renewal period. Following are the Respondent's dates of licensure:

Initial license expired on May 5, 2007 and was renewed on November 29, 2007;

Subsequent license expired on May 5, 2009 and was renewed on May 14, 2009;

Subsequent license expired on May 5, 2011 and was renewed on October 31, 2011;

Subsequent license expired on May 5, 2013 and was renewed on September 27, 2013;

and the current license has an expiration date of May 5, 2017. (Exhibit 2)

4. On October 31, 2011, the Commission received an Application for Renewal of Broker's License from Respondent, and he answered "No" to question #7, "Have you, since your last original or renewal application, been or are now involved in any matter which affect your good repute or trustworthiness or have any relation to or bearing upon whether you are entitled to public confidence?" However, on April 26, 2010, Respondent was disciplined by the Massachusetts Board of Registration of Real Estate Brokers & Salespersons with a 21 day suspension of license, a \$1,000 fine, and required to attend continuing education. (Exhibit 3)

5. On March 13, 2014, Respondent was convicted in the Boston Municipal Court, Docket #1301CR000993 for Larceny from a Building. On August 26, 2015, the Commission received an Application for Renewal of Broker's License from Respondent for his broker license which had expired on May 5, 2015. In that application Respondent answered "No" to question #6 and added a notation, "See explanation." In Respondent's explanation he stated that in 2013 he was wrongfully accused and prosecuted for larceny in the Boston Municipal Court in Massachusetts, and in 2014 after a jury trial, the court erroneously entered a "Guilty" disposition despite the return of a "Not Guilty" verdict slip from the jury. Along with this explanation Respondent supplied a jury verdict slip indicating "not guilty". (Exhibit 4)

6. On March 9, 2016, Respondent was indicted in the Massachusetts Suffolk Superior Court for the following:

Making a false statement under penalty of perjury in violation G.L. c. 268, § 1 & 1A;  
Tampering with a court record in violation of G.L. c. 268 § 13E;  
Forgery of a document in violation of G.L. c. 267, §1;  
Uttering a false writing in violation of G.L. c. 267 §5 on 3/13/2014; and  
Uttering a false writing in violation of G.L. c. 267, §5 on 5/13/2015. (Exhibit 5)

7. On May 6, 2016, Respondent was indicted in the Massachusetts Suffolk Superior Court for the following:

Uttering a false writing in violation of G.L. c. 267, §5; and  
Making a false statement under penalty of perjury in violation of G.L. c. 268, §1A. (Exhibit 6)

8. On June 17, 2016, the Massachusetts Board of Registration of Real Estate Broker and Salespersons issued a Temporary Order suspending Respondent's real estate broker license and required him to return the license by June 23, 2016. (Exhibit 7)

9. On July 5, 2016, the Massachusetts Board of Registration of Real Estate Brokers and Salespersons issued an Order continuing Respondent's Summary/Temporary Suspension. Respondent's Massachusetts broker license #9070454-RE-B was currently *SUSPENDED*. (Exhibit 8)

10. On July 28, 2016, the Commission received an Amendment Notification/Change Request Form from Respondent requiring a legal name changes from David E. Scher to David V. Scher. Respondent provided a marriage certificate in the name of David V. Scher, but failed to provide the State of New Hampshire proof of a legal name change from a court of appropriate jurisdiction. (Exhibit 9)

11. Respondent failed to notify the Commission of a change to his resident physical address. On August 31, 2016, Respondent Scher informed Commission Investigator Corthell that his resident physical address was 135 Willard Street #11, Quincy, Massachusetts. This contradicts the Commission's address of record: 2193 Commonwealth Avenue #200, Boston, Massachusetts. (Exhibit 10).

12. On September 13, 2016, the Massachusetts Board of Registration of Real Estate Brokers and Salespersons revoked any and all of Respondents licenses to practice in the real estate

profession in the Commonwealth of Massachusetts including the right to renew any lapse licenses.

(Exhibit 11)

**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:17 License Amendments.**

I. Any principal broker who changes the place of business shall notify the commission of the change in writing within 10 days of the changes.

II. A real estate principal broker who proposes to use a registered trade name in connection with a firm broker license or individual principal broker license shall state that fact on an amendment form, and submit the form along with the appropriate fee, the firm broker license or individual principal broker license to be amended, and a trade name registration form. The firm broker license or individual principal broker license shall be amended to include the trade name.

III. It is the responsibility of all licensees to notify the commission in writing of any changes to the licensee's resident address, mailing address and work location address.

IV. The license of a real estate salesperson or associate broker shall be retained at all times by the principal broker and whenever a licensed salesperson or associate broker changes his or her affiliation from one licensed principal broker to another or ceases to represent the principal broker, the principal broker shall notify the commission in writing of the termination. Such notice shall be accompanied by the salesperson's or associate broker's license. Failure of any principal broker to notify the commission of such salesperson's or associate broker's termination within 5 days after the termination of the salesperson or associate broker shall be grounds to discipline the principal broker.

V. The commission shall issue a new license for the unexpired term if the salesperson or associate broker meets all requirements of licensure, upon receipt of a statement from a principal broker, together with the appropriate fee, that such salesperson or associate broker has become affiliated with such principal broker.

VI. When a salesperson's or broker's services are terminated by the principal broker for a violation of any of the provisions of this chapter, a written statement of the facts shall be submitted immediately to the commission by the principal broker.

**RSA 331-A:23 Denial of Reciprocity.** No broker or salesperson applicant whose license as a broker or salesperson is under revocation or suspension in another state shall be granted a license as a broker or salesperson in this state; and, if already granted a license through reciprocity, it may be revoked or suspended as provided under this chapter upon proof of the other state's action.

**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.

II. Violating any of the provisions of this chapter, or any rules adopted or order issued pursuant to this chapter.

III. Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, sexual crimes, drug distribution, arson, physical violence, or any similar

offense or offenses; provided that, for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended.

IV. Making, printing, publishing, distributing, or causing, authorizing or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act, if the statements, descriptions, or promises purport to be made or to be performed by either the licensee or licensee's principal, and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known of the falsity of the statements, descriptions or promises.

V. Knowingly committing, or being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device, whereby any other person relies upon the word, representation or conduct of the licensee.

XXIX. Unprofessional conduct defined in RSA 331-A:2, XV.

XXXVI. Demonstrating untrustworthiness or incompetency to act as a broker or salesperson.

XXXVII. Failing to inform the commission in writing within 30 days of being convicted in a court of competent jurisdiction of this or any other state or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses, or an offense or offenses involving sexual crimes, drug distribution, arson, or physical violence, provided that, for the purposes of this paragraph, being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended. This paragraph applies only when the conviction has not first been annulled by a court pursuant to RSA 651:5.

#### Rulings of Law:

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

Respondent was issued a reciprocal New Hampshire real estate broker's license on May 5, 2005 based on his Massachusetts real estate broker's license #9070454. Respondent answered "No" to question #7, "Have you, since your last original or renewal application, been or are now involved in any matter which affect your good repute or trustworthiness or have any relation to or bearing upon whether you are entitled to public confidence?", on his 2011 NH Application for Renewal of Broker's License and failed to disclose on this application that he was disciplined on April 26, 2010 by the Massachusetts Board of Registration of Real Estate Brokers & Salespersons with a 21 day suspension of license, a \$1,000 fine, and required to attend continuing education. Respondent was convicted in the Boston Municipal Court in Massachusetts, Docket #1301CR000993 for Larceny from a Building on March 13, 2014, but answered "No" to question #6, "Have you, since your last original or renewal application, been convicted of a misdemeanor or felony offense?" on his 2015 NH Application for Renewal of Broker's License and added a notation, "See Explanation". In Respondent's explanation he

stated that in 2013 he was wrongfully accused and prosecuted for larceny in the Boston Municipal Court in Massachusetts, and that in 2014, after a jury trial the court erroneously entered a "Guilty" disposition despite the return of a "Not Guilty" verdict slip from the jury. Along with this explanation, the Respondent supplied a jury verdict slip indicating "not guilty". similar behavior with changing his name on his marriage license without legal process. Therefore, the Commission found that Respondent obtained a license by means of in violation of RSA 331-A:26, I, III, IV, V, XXIX, XXXVI, and XXXVII. (Notice of Hearing, paragraph 14).

On July 28, 2016, the Commission received an Amendment Notification/Change Request Form from Respondent requesting a legal name change from David E. Scher to David V. Scher and provided a marriage certificate, but failed to provide to the State of New Hampshire proof of a legal name change from a court of appropriate jurisdiction. On August 31, 2016, Respondent informed the Commission Investigator Corthell that his resident physical address was at 135 Willard Street #11, Quincy, Massachusetts, which contradicts the Commission's address on record supplied by Respondent at 2193 Commonwealth Avenue #200, Boston, Massachusetts. Therefore, the Commission found Respondent in violation of RSA 331-A:17 and RSA 331-A:26, II. (Notice of Hearing paragraph 12 and 14)

On September 13, 2016, the Massachusetts Board of Registration of Real Estate Brokers and Salespersons revoked any and all of Respondents license to practice in the real estate profession in the Commonwealth of Massachusetts, including the right to renew any lapsed licenses. Therefore, the Commission voted to revoke Respondent's reciprocal NH broker's license based on the revocation of his broker license #9070454, pursuant to RSA 331-A:23, and based on the violations of RSA 331-A:17, RSA 331-A:26, I, II, III, IV, V, XXIX, XXXVI, and XXXVII.

**Disciplinary Action:**

Based upon the Findings of Facts and Rulings of Law above, the Commission finds that the Respondents' actions indicate that they failed to "meet and maintain the minimum standards which

promote public understanding and confidence in the business of real estate brokerage" (RSA 331-A:1 Purpose) and has voted to order the following:

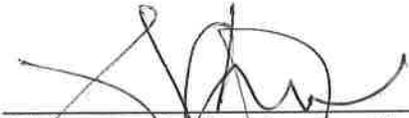
It IS **ORDERED** that Respondent's reciprocal real estate broker's license be hereby revoked, and Respondent is ordered to immediately return his broker license certificate and pocket card for license #060977 upon receipt of this Order.

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 Respondents.

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 thirty (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...").

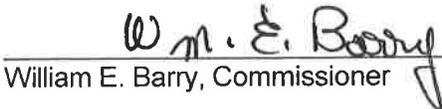
IT IS FURTHER **ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

  
\_\_\_\_\_  
John G. Cronin Esquire, Presiding Officer

1-17-17  
Date

  
\_\_\_\_\_  
Daniel S. Jones, Commissioner

1/17/17  
Date

  
\_\_\_\_\_  
William E. Barry, Commissioner

01/17/2017  
Date

*Calley M. Milne*

Calley M. Milne, Commissioner

*1/17/2017*

Date

*Paul A. Lipnick*

Paul A. Lipnick, Commissioner

*1-17-17*

Date