

Before the
N.H. Real Estate Commission
Concord, N.H. 03301

In the Matter of:

Lynne Barry
(Disciplinary Matter)

FINAL DECISION AND ORDER

Before the New Hampshire Office of Professional Licensure and Certification, Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding in the Matter of Lynne Barry, NH Principal Broker #057296 ("Respondent" or "Ms. Barry").

BACKGROUND INFORMATION

This proceeding was commenced by on January 16, 2018, following an Order to Show Cause issued December 28, 2017 by the New Hampshire Real Estate Commission ("Commission"), where Ms. Barry was notified of the opportunity to appear before the Commission and show cause why any and all rights she may have to practice as a Licensed Principal Broker in New Hampshire should not be suspended, revoked or subject to additional disciplinary action in the State of New Hampshire as a result of being convicted in a court of proper jurisdiction of embezzlement, as well as failure to inform the commission in writing within 30 days of being convicted.

An Order to Show Cause was sent to Ms. Barry via US mail, return receipt requested, dated December 28, 2017. The envelope was returned to sender.

The Show Cause hearing was held on Tuesday, January 16, 2018 at the Board office at 9:30 a.m. Ms. Barry did not appear at the hearing nor did Ms. Barry notify the Board in writing

that she would be unable to attend the hearing. Due to Ms. Barry's failure to attend the hearing, the hearing was held in absentia.

Board members present were¹

Daniel Jones, Chairperson
Paul Lipnick, Public Member
John Cronin, Attorney
Richard Hinch, Broker Member

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

- A. Memo from Rick Wisler, Administrator III dated 12/8/17
- B. Printout from the My License Office database system
- C. Report of Investigation
- D. Case Summary from the NH Trail Courts
- E. Police Report from Ms. Barry's arrest

FINDINGS OF FACT

1. The Respondent was granted a license as a salesperson in the State of New Hampshire on June 4, 2003; she upgraded her license to a Principal Broker status on July 14, 2006 and is current until July 14, 2018.
2. On or about November 9, 2017, an article appeared in the Conway Daily Sun that reported the following: *"OSSIPPEE- An Intervale woman has been sent to jail and ordered to pay more than \$66,400 in restitution to a local condo association as a result of pleading guilty to theft. Lynne Barry, 54, pleaded guilty to misdemeanor theft by unauthorized taking in Carroll County Superior Court on Nov. 3. She was sentenced to a year in jail with all but one month suspended for one year. She also must pay \$66,408 in restitution to Northbrook Condominium Association and perform 20 hours of community service. "According to the indictment, the theft was committed between April 2014 and August 2015."The defendant obtained U.S. currency, belonging to another, the Northbrook Condo Association, by depositing association members' fees in her own business account, the purpose to*

¹ The same Board members also deliberated and voted on this Final Decision and Order.

deprive the owner of the property," states the indictment filed by assistant County Attorney Kimberly Tessari."

3. On December 12, 2017 former Investigator Corthell contacted the House of Corrections and confirmed that Ms. Barry was incarcerated from November 3, 2017 through her release on November 22, 2017.
4. To date Ms. Barry has not notified the Commission regarding her convictions.
5. A Show Cause Order was issued on December 28, 2017 by the New Hampshire Real Estate Commission sent via US mail return receipt requested in which the Respondent was afforded the opportunity to appear before the Board on January 16, 2018 and show cause why any and all rights she may have to practice as a Licensed Broker in New Hampshire should not be suspended, revoked or subject to disciplinary action.
6. A Show Cause hearing was held on Tuesday, January 16, 2018 at the Board office at 9:30 a.m. Ms. Barry failed to attend the show cause hearing. Therefore the hearing was held in absentia.

CONCLUSIONS OF LAW

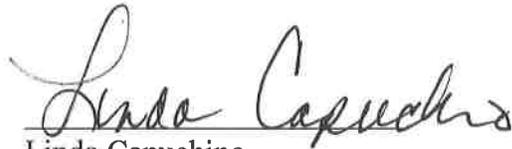
- I. The Respondent violated state statutes RSA 331-A:26, III; RSA 331-A:26, XXXVII as a result of being convicted in a court of proper jurisdiction of embezzlement as well as failure to inform the commission in writing within 30 days of being convicted.
- II. The Board finds that the Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 331-A:26, III; RSA 331-A:26, XXXVII.

THEREFORE, IT IS ORDERED, pursuant to RSA 331-A:28 that the following sanctions are imposed:

- A. The State of New Hampshire Broker license of Lynne Barry is hereby revoked.
- B. This order shall become a permanent document in the Respondent's file which is maintained by the Commission as a public document.
- C. This Order shall take effect on the date it is signed by an authorized representative of the Commission.
- D. 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.

BY ORDER OF THE COMMISSION

Dated: January 18, 2018



Linda Capuchino
Division Director