

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

JANUARY 26, 2016

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, January 26, 2016 at 8:30 a.m. in Conference Room #B119, 121 South Fruit Street, Concord, New Hampshire 03301.

- I. Meeting was called to order at 8:35 a.m. by Chairman Daniel Jones.
Present: Commissioners Daniel Jones, John Cronin, William Barry, Calley Milne, and Paul Lipnick.

Also present: Attorney Tom Broderick, Linda Capuchino, and Louise Lavertu for portions of the meeting, and Beth Edes and Kinsman Corthell for the entire meeting.

- II. On motion by Commissioner Cronin, seconded by Commissioner Milne, the Commission approved the Minutes of the Commission meeting held on December 15, 2015.

III. APPOINTMENTS

8:47 a.m. Show Cause Hearing – ALLISON DRISCOLL appeared before the Commission for a show cause hearing regarding her criminal history record submitted with her application for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Barry, seconded by Commissioner Lipnick, decided to allow Ms. Driscoll to apply for her original salesperson's license.

8:55 a.m. JOSEPH E. FAHEY, III appeared before the Commission to request reinstatement of his lapsed 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 Milne, decided to approve the reinstatement of Mr. Fahey's lapsed license for good cause shown as required by RSA 331-A:18, II, contingent upon receipt of his completed application, along with the required renewal and late fees, and continuing education within 60 days of the date of the meeting. Commissioner Cronin was recused from the discussion and decision on the matter.

8:50 a.m. NATHAN DICKEY, principal broker of New England Coastal Realty, Inc. dba: Keller Williams Coastal Realty appeared before the Commission to request a declaratory ruling regarding RSA 331-A:34 Unlawful Practice; Penalty as it pertains to automated calling, circle prospecting, client care follow-up, inbound lead qualification, and direct marketing involving unlicensed assistants. After review and discussion, the Commission decided that Mr. Dickey's request for declaratory ruling was too broad to issue a ruling on the matter.

APPOINTMENT OF PRESIDING OFFICER – On motion by Commissioner Barry, seconded by Commissioner Lipnick, the Commission appointed Commissioner Cronin to serve as the presiding officer for the pre-hearing conference and hearing on Complaint File No. 2014-063.

- IV. PRE-HEARING CONFERENCE 9:15 AM
FILE NO. 2014-063 NEW HAMPSHIRE REAL ESTATE COMMISSION VS G. BRANDT
ATKINS

V. **HEARING 10:28 AM**

FILE NO. 2014-063NEW HAMPSHIRE REAL ESTATE COMMISSION VS G. BRANDT ATKINS

The following persons were present at the hearing:

Commission: Commissioners Daniel Jones, John Cronin, Calley Milne, and Paul Lipnick

Recused Member: Commissioner Barry was recused from the above matter and abstained from participation in the discussion.

Complainant: The NH Real Estate Commission through its Investigator Kinsman Corthell

Attorney: Pro Se

Respondent: G. Brandt Atkins

Attorney: Pro Se

Witnesses: G. Brandt Atkins
Eugene Cormier
Detective Rochelle Jones
Jennifer Ouellette

VI. **INTERIM RULEMAKING**

On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission adopted the following interim rules: Rea 301.03 (a)-(f), (h), (i), (l), (n), (q), (r), 301.04(a), 303.02, 702.01 & 703.01 to become effective January 28, 2016, and decided to add the following language to the Commission's Cooperating Agreement with a Non-New Broker form to be consistent with Rea 703.01: "The Non-New Hampshire broker is formally granting an irrevocable consent and power providing that legal actions can be commenced against said broker in the proper court of any county of this state in which a cause of action does arise or in which the plaintiff resides by service of process or pleading authorized by the laws of this state on a member of the commission or its executive director, the consent or power stipulating that such service of process or pleading shall be taken in all courts to be valid and binding as if personal service had been made upon the nonresident in this state."

VII. **OTHER BUSINESS**

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

February 16, 2016 at 8:30 a.m.

VIII. **NON-PUBLIC MEETING**

On motion by Commissioner Cronin, seconded by Commissioner Milne, the Commission, by roll call vote, voted unanimously to conduct a non-public session for the purpose of deliberations on the hearing held on File No. 2014-063, and evaluating complaints against licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity, and noting that such a non-public session is authorized by RSA 91-A:3, II(c), RSA 91-A:5, IV, Lodge v. Knowlton, 11 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present. On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission adjourned the non-public meeting at 11:30 a.m.

IX. **PUBLIC MEETING RECONVENED**

On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission reconvened the public meeting at 4:39 p.m.

X. **NON-PUBLIC MINUTES SEALED**

On motion by Commissioner Cronin, seconded by Commissioner Barry, the Commission, by roll call vote, voted to seal the Minutes of the non-public meeting from public disclosure pursuant to RSA 91-A:3, III (c), on the grounds that public disclosure would likely affect adversely the reputation of licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity, RSA 91-A:5, IV, Lodge v. Knowlton, 11 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

XI. **ADJOURNMENT**

On a motion by Commissioner Cronin, seconded by Commissioner Barry, Chairman Daniel Jones adjourned the meeting at 4:40 p.m.

Respectfully submitted,



Paul A. Lipnick
Clerk