

**NEW HAMPSHIRE REAL ESTATE COMMISSION
COMMISSION MEETING MINUTES
October 16, 2018**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, October 16, 2018 at 8:30 a.m. at 121 South Fruit Street, Room #B119, Concord, New Hampshire 03301.

Present: Commissioners Dan Jones, John Cronin, Paul Lipnick and Susan Doyle. Commissioner Richard Hinch was not present

Present from OPLC/REC: Division Director Joe Shoemaker, Rick Wisler, Michael Porter and Bobbie Carter.

I. CALL TO ORDER –

The meeting was called to order at 8:33 a.m. by Commissioner Jones.

II. READING AND APPROVAL OF THE MINUTES –

Commissioner Cronin moved to approve the September 18, 2018 minutes, Commissioner Lipnick seconded. The motion passed 3-0. Commissioner Lipnick abstained.

III. NEW BUSINESS –

Appointments:

- A. Richard O'Donnell – appearance for renewal of lapsed salesperson license. Mr. O'Donnell informed the Commission that he was active for the first 6 years of licensing but worked only part time. He'd like to renew as inactive. He assured the Commission that he has not conducted any transactions since his license has expired. Commissioner Cronin moved to approve the renewal subject to a 200.00 fine, if approved by the Attorney General's office. If the fine is not approved then to reinstate without delay. Seconded by Commissioner Doyle. Motion passed unanimously.
- B. Tammy Bedell-Csutor – Ms. Bedell-Csutor left a voicemail that she would not be in attendance due to a work conflict.
- C. JoAnne Lonergan – appearance for renewal of lapsed salesperson license. Ms. Lonergan explained that the lapse of her license was due to a series of family illnesses among other circumstances. Commissioner Cronin voiced his concern for the number of reinstatements appearing before the Commission and stated how he would like to

impose a 200.00 per month penalty to renew a lapsed license. In this case it would be 400.00 for the two months. Commissioner Cronin moved to approve the renewal subject to a 400.00 fine, if approved by the Attorney General's office. If the fine is not approved then to reinstate without delay. Seconded by Commissioner Doyle. Motion passed unanimously.

- D. Ray Jennings – appearance scheduled for equivalency. Mr. Jennings has been in the business in Massachusetts as an attorney and an active broker. Commissioner Cronin moved that they approve Ray Jennings for Equivalency based on his vast experience, seconded by Commissioner Doyle. Motion passed unanimously.

IV. OTHER BUSINESS

- A. Discussion of recent Declaratory Rulings re: Unlicensed LLC Entities & Sharing Commissions

Unlicensed LLC Entities – Attorney Matt Johnson addressed the Commission. He informed the commission that he had discussion with Commission Council and understands that a legislative change is needed and is willing to work with the Commission to develop legislation to allow licensing of a single person LLC. He believes that this would not harm consumers and still allow disciplinary action against such. Commissioner Cronin expressed concern of LLC v PLLC civil liability and whether or not there is a true financial advantage of having an LLC. Commissioner Cronin also suggested that someone, possibly from NHAR or Keller Williams, provide a narrative explanation of the benefits for Commission review.

9:40 Nate Dickey, Matt Johnson and Bob Quinn reappeared at meeting. Nate Dickey addressed the Commission, he informed them that he had eight employees that were impacted by the decision. He stated that the major issue is moving commission payment from individual accounts to LLC accounts and other business expenses and payroll to staff (not licensees) are drawn off LLC accounts. Ann Flanagan stated the past Commission minutes never granted permission. Attorney Johnson disagreed and suggested a prior Commission ruling may have allowed payments to LLCs and perhaps allowing a period of time to allow past licensees to continue operating under the prior ruling would alleviate some concerns. He asked the Commission to consider “vacating” the ruling pending the outcome of legislation. Commissioner Cronin expressed concerns.

Cronin suggested that the Commission talk with AG about a “safe harbor” prior vacating any ruling and to seek further guidance. Commissioner Cronin stated that he was not comfortable with vacating a ruling without getting all the information.

Sharing Transaction Commissions - Ann Flanagan stated that she believes the prior Wynn Arnold opinion allows sharing of commission with exempt classes (i.e. property owner, park owner, etc.) and that the new ruling needs to be amended to allow this. Attorney Matt Johnson informed the Commission that he had also spoken with Commission Council, and he believes the last sentence of the new opinion does need clarification. Commissioner Cronin asked Attorney Johnson if he could “red line” the opinion with his suggestions and submit it for review.

B. Questions and Comments

Commission Jones made favorable comments regarding the Instructors’ Workshop and thanked staff and everyone for their help to make it a successful transition.

Shannon Whaley spoke in favor of changing the exam from AMP to PSI format and reducing it from 100 to 80 questions.

The meeting was recessed at 10:05 a.m. for a short break.

The meeting was reconvened at 10:14 a.m.

V. NON-PUBLIC SESSION -

At 10:14 p.m. following an appropriate motion by Commissioner Lipnick and second by Commissioner Jones to go in to a non-public session the Commission, by roll call, voted to conduct a non-public session for the purpose of the reading and approval of the non-public minutes of the July 17, 2018 meeting, and evaluating complaints against licensees, accredited individuals, institutions, or organization, 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 vote of all members present.

VI. PUBLIC MEETING RECONVENED –

At 12:10 p.m. an appropriate motion was made by Commissioner Cronin and seconded by Commissioner Lipnick, and the Commission unanimously voted, to reconvene the public meeting.

VII. NON-PUBLIC MINUTES SEALED –

On an appropriate motion by Commissioner Cronin and second by Commissioner Lipnick the Commission, by roll call, voted to seal the minutes of the non-public session 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.

VIII. NEXT MEETING –

The next meeting is scheduled for Tuesday, November 20, 2018 at 8:30 a.m.

IX. MEETING ADJOURNED –

At 12:15 p.m. an appropriate motion was made, and seconded, to adjourn the meeting. The motion was unanimously approved.