

**NEW HAMPSHIRE REAL ESTATE COMMISSION
MEETING MINUTES
June 18, 2019**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, June 18, 2019 at 8:30 a.m. at 121 South Fruit Street, Room #B119, Concord, New Hampshire 03301.

Present: Commissioners: Chair Daniel Jones, Paul Lipnick, Richard Hinch, Steven Hyde, Esq. and Susan Doyle.

Also present from OPLC: Division Director Joe Shoemaker, Investigator Michael Porter, Administrator Rick Wisler, and Staff member Bobbie Carter.

I. CALL TO ORDER –

The meeting was called to order at 8:32 a.m. by Commissioner Jones.

II. READING AND APPROVAL OF THE MINUTES –

Commissioner Hinch moved to approve the May 16, 2019 meeting minutes, Commissioner Doyle seconded. The motion passed unanimously.

III. NEW BUSINESS –

Appointments:

- A. Deb Bryce – Deb Bryce emailed Administrator Wisler and asked to be moved to the July meeting. Request granted.

- B. Gabrielle Lombardo – Reinstate Salesperson License. Ms. Lombardo was licensed in New Hampshire and immediately became licensed in Massachusetts. She let her New Hampshire license lapse, on November 3, 2018, because she did not intend to continue practicing in New Hampshire. However, her mother became ill and she feels the need to reinstate her New Hampshire license and move back to the state. Moved by Commissioner Hyde to approve reinstatement, seconded by Commissioner Hinch. Motion passed unanimously.

- C. Michael Johnson – Equivalency. Mr. Johnson has been a licensed Broker in Florida since 2002. He has already completed the 60 hour Broker course. A brief discussion was held regarding his employment, transactional, and managerial history. Moved by Commissioner Hyde to approve, seconded by Commissioner Hinch. Motion passed unanimously.

IV. RULES

- Rea 101.01 (k) - Commissioner Hinch moved to approve as amended, seconded by Commissioner Lipnick. Motion passed unanimously.

- Rea 301.02 (d) - Commissioner Hinch moved to approve as amended, seconded by Commissioner Doyle. Motion passed unanimously.
- Rea 301.02 (i) - Commissioner Hyde raised a concern that issuing a fine without requiring a license to appear before the Commission may violate RSA 331-A:18. After discussion and by consensus, the Commission determined to review the proposed rule later in the meeting. Any broker or salesperson whose license has lapsed and appeared before the Commission and has been approved, shall pay a fee in addition to renewal and late fee.
- Rea 301.03 (a) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 301.03 (b) - Commissioner Hinch moved to approve proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 301.03 (1)(2)a – Commissioner Hinch moved to approve as amended, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 301.03 (q) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 301.03 (q)(1) - Commissioner Hinch moved to approve as amended, seconded by Commissioner Doyle. Motion passed unanimously.
- Rea 301.03 (q)(2) - Hinch moved to approve as amended, seconded by Lipnick. Unanimous.
- Rea 302.03 - No action needed.
- Rea 302.03 (a) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 302.03 (a)(3) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 302.03 (b)(3) - Commissioner Hinch moved to approve as amended, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 302.03 (c) - Commissioner Hinch moved to approve as amended, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 401.02 (b)(3) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Lipnick. Motion passed unanimously.
- Rea 403.01 (b)(1) - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Doyle. Motion passed unanimously.
- Rea 404.02 - Commissioner Hinch moved to approve leaving proposed rule unchanged, seconded by Commissioner Doyle. Motion passed unanimously.
- Continued discussion of proposed rule change for lapsed fee Rea 301.02 (i). Commissioner Hyde presented proposed language and agreed to a further amendment to allow the Commission to waive the lapsed fee for good cause, at the discretion of the Commission. “Any broker or salesperson whose license has lapsed and who has appeared before the Commission pursuant to a request under RSA 331-A:18, II, and has been granted reinstatement shall pay a lapsed fee of \$200 for each four week period or part thereof, the (“lapsed fee”), after the date of lapse in addition to the regular renewal fee and late fee, for reinstatement of a lapsed license after the license is deemed expired. The foregoing lapsed fee may be waived upon good cause shown.” After reviewing the proposed amendment Commissioner Hinch moved to approve, seconded by Commissioner Doyle. Motion passed unanimously.

9:20 a.m. Meeting break – 9:35 a.m. Meeting reconvened.

V. SHOW CAUSE HEARING

Eric Pelletier – Mr. Pelletier was present. Investigator Porter presented facts on behalf of the Commission. Investigator Porter stated that Mr. Pelletier failed to produce requested documents for Docket number 2019-012. Mr. Pelletier stated that he replied on April 12, 2019 and did not respond to further requests for documents per the advice of his attorney. Commissioner Hinch moved to accept Investigator Porter’s recommendation for immediate suspension, seconded by Commissioner Hyde. Motion passed unanimously.

VI. DISCIPLINARY HEARING

Complaint Docket #2019-012 New Hampshire Real Estate Commission v Eric Pelletier

The complaint was filed on behalf of the Real Estate Commission. Respondent, Eric Pelletier decided to waive his right to appear at his hearing. Commissioner Jones explained the hearing procedure and Mr. Pelletier’s right to appeal. Mr. Pelletier left the building. The hearing was held in absentia.

Commissioner Jones was recused from the matter and did not participate. Commissioner Hyde was appointed as the Presiding Officer. The matter then proceeded to hearing at 10:15 a.m.

Commissioner Hyde administered the oath to all witnesses as they appeared.

Investigator Michael Porter presented testimony regarding the complaint alleging Mr. Pelletier violated RSA 331 – A:20, V (b); RSA 331 – A:20, V (c); RSA 331 – A:20, V (f); RSA 331 – A:20, V (g); RSA 331 – A:20, V (k); RSA 331 – A:20, V (m); RSA 331-A:26, II; RSA 331-A:26, V; RSA 331-A:26, VII; RSA 331-A:26, IX; RSA 331-A:26, XXIX; RSA 331-A:26, XXXV; RSA 331-A:26, XXXVI; Rea 101.02. His witnesses included: Rick Wisler, Rebecca Beauchemin, Vandy Garnham, Luba Fedorov, Donna Hannemann, Joanne Keefe and Antoinette Knott.

Following testimonies and Commission member questions of all witnesses, Presiding Officer Hyde closed the hearing at 11:28 a.m.

11:30 a.m. Meeting break – 11:48 a.m. Meeting reconvened.

Complaint Docket #2018-040 New Hampshire Real Estate Commission v Kerri McCauley

The complaint was filed on behalf of the Real Estate Commission. Respondent, Kerri McCauley was present and was not represented.

Commissioner Doyle was recused from the matter and did not participate. Commissioner Hyde was appointed as the Presiding Officer.

Commissioner Hyde administered the oath to Ms. McCauley and explained the hearing process. The matter then proceeded to hearing at 11:55 a.m.

Investigator Mike Porter suggested an offer of proof and explained that he and the respondent would both simply present their cases.

Investigator Michael Porter presented testimony regarding the complaint alleging Ms. McCauley violated RSA 331 – A:3 and RSA 331-A:34; His witnesses included: Kerri McCauley. No other witnesses were introduced by the respondent.

Kerri McCauley presented her case.

Following testimonies and Commission member questions of both parties, Commissioner Hyde made a motion to continue the matter in order to receive information about the number and information of rental owners since 2012 and income that Ms. McCauley has received. He then referenced penalties that could equal the amount received or up to \$10,000 per occurrence, Commissioner Hinch seconded. Motion passed 3-0. Commissioner Lipnick abstained

Commissioner Hyde made a motion to ask staff seek advice from Commission counsel whether the issue is a class A misdemeanor under RSA 331-A:34 should the respondent be found guilty; Due to the possible criminal implications the hearing should be tabled in order to protect the respondent's right to have counsel present; however, issue a temporary cease and desist, seconded by Commissioner Hinch. Motion passed 3-1.

Presiding Officer Hyde closed the hearing at 12:42 p.m.

VII. OTHER BUSINESS –

Review of Order Docket #2018-003 NHREC v Paul McCoy - Commissioner Lipnick made a motion to approve the order as written, Commissioner Hyde seconded. Motion passed unanimously. Commissioner Doyle was recused from the vote.

Questions and Comments. A member from the public commented that he became licensed to do similar property management services as Ms. McCauley. He stated that he appreciated what the Commission was doing and asked that all similar businesses be required to be licensed.

VIII. NON-PUBLIC SESSION –

At 12:47 p.m. following an appropriate motion by Commissioner Hinch and second by Commissioner Doyle 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 May 16, 2019 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.

IX. PUBLIC MEETING RECONVENED –

At 1:43 p.m. an appropriate motion was made by Commissioner Hinch and seconded by Commissioner Hyde, and the Commission unanimously voted, to reconvene the public meeting.

X. NON-PUBLIC MINUTES SEALED –

On an appropriate motion by Commissioner Hinch and second by Commissioner Hyde 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.

XI. DELIBERATIONS

Complaint Docket #2019-012 New Hampshire Real Estate Commission v Eric Pelletier

- In the matter of violations of RSA 331 – A:20, V (b); RSA 331 – A:20, V (c); RSA 331 – A:20, V (g); RSA 331 – A:20, V (k); RSA 331 – A:20, V (m); RSA 331-A:26, II; RSA 331-A:26, V; RSA 331-A:26, VII; RSA 331-A:26, IX; RSA 331-A:26, XXIX; RSA 331-A:26, XXXVI; Rea 101.02 a brief discussion was held whereas the Commissioners felt that Mr. Pelletier admitted to the allegations in his response that he provided to Investigator Porter.
- RSA 331 – A:20, V (f) a brief discussion was held and the Commissioners felt that fraudulent activity shows incompetence.
- RSA 331-A:26, XXXV withdrawn

Commissioner Hinch moved to accept the violations as deliberated, Revoke the license to practice effective immediately and issue a monetary fine of \$5000 to be paid within 30 days, seconded by Commissioner Lipnick. Motion passed 4-0. Commissioner Jones was recused.

XII. NEXT MEETING –

The next meeting is scheduled for Tuesday, July 16, 2019 at 8:30 a.m.

XIII. MEETING ADJOURNED –

At 2:15 p.m. an appropriate motion was made, and seconded, to adjourn the meeting. The motion was unanimously approved.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bobbie Mayo".

Bobbie Mayo
Supervisor II