

**NEW HAMPSHIRE REAL ESTATE COMMISSION  
COMMISSION MEETING MINUTES  
SEPTEMBER 19, 2017**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, September 19, 2017 at 8:32 a.m. at 121 South Fruit Street, Room #B119, Concord, New Hampshire 03301.

Present: Commissioners: Daniel Jones, Paul Lipnick, and John Cronin, Esq.

Present from OPLC/REC: Rick Wisler, Bobbie Carter, and Kinsman Corthell. Also present were members of the public.

**I. CALL TO ORDER –**

The meeting was called to order at 8:32 by Chair Dan Jones.

**II. LETTERS FROM COMMISSIONERS NOT PRESENT –**

Chair Jones read aloud letters written by Commissioners Milne and Barry. Commissioner Milne's letter explained her disappointment in the events that occurred in the prior weeks leading up to her term ending, and thanked all who supported her and her efforts to be re-nominated, and for their ongoing support to maintain the high standards of the profession. Commissioner Barry's letter addressed to the Governor and the Executive Council expressed his strong disappointment regarding the handling of Commissioner Milne's desire to be re-appointed and tendered his resignation effective immediately. The letter submitted by Commissioner Milne is attached hereto, as well as a transcription of the letter from Commissioner Barry as read by Chairman Jones, are attached as reference only. The OPLC staff disagrees with the assertions set forth by prior Commissioner Barry.

**III. READING AND APPROVAL OF THE MINUTES –**

Commissioner Cronin wished to amend the minutes of August 15, 2017 to reflect that the Commission had concerns regarding the Governor's decision not to re-appoint Calley Milne to the Commission and the input of OPLC in this regard.

Commissioner Lipnick moved to accept the minutes as amended, seconded by Commissioner Cronin, the motion passed unanimously.

**IV. NEW BUSINESS –**

A. MATT JOHNSON appeared before the Commission, representing Nathan Dickey, requesting Commission consideration of a request to have two managing brokers at one office. The Commission questioned which broker would prevail over issues, who would manage staff, and whether the office should review their personnel structure to allow for a single managing broker. Following discussion Commissioner Cronin questioned whether RSA 331-A:16, I would allow more than one managing broker and moved to seek guidance on this matter from legal counsel. Commissioner Lipnick seconded, the motion to seek legal guidance was unanimously approved.

B. RYK BULLOCK appeared before the Commission requesting a second temporary broker license for his firm, this one to be issued to a different salesperson. Last year the REC issued a temporary broker license to Mr. Bullock pursuant to RSA 331-A:21. That license expired July 7, 2017. Due to on-going medical issues Mr. Bullock requested the Commission issue another temporary broker license, this time to salesperson Donald Chagnon. Following discussion Commissioner Cronin sympathized with the circumstances but questioned whether RSA 331-A:21 would allow more than one temporary license to be issued to a broker within the same firm and moved to seek guidance on this matter from legal counsel. Commissioner Lipnick seconded, the motion to seek legal guidance was unanimously approved.

C. THOMAS TREMBLAY appeared before the Commission with a question whether he could be a principal broker for two different businesses. He is a principal broker of one firm, and wishes to act as a principal broker for a short time at another property rental firm which he has no interest in. Mr. Tremblay distributed a flow chart of the proposed arrangement. Following discussion including the belief that only one license can be “hung” in one office, Commissioner Cronin moved to seek guidance on this matter from legal counsel. Commissioner Lipnick seconded, the motion to seek legal guidance was unanimously approved.

John Dolan addressed the Commission about prior practice whereby a principal broker could also be a principal broker for a separate “referral” practice, and that any change could be problematic for those already conducting business as such.

D. MELISSA VAN SICKLE’s presentation to the Commission reporting an analysis of expenses and revenue is postponed until the next morning to all time to review final fiscal year numbers, and the recommendations of the recent performance audit.

E. LISA HITCHCOCK ORDER DOCKET 2016-008. The Commission reviewed and approved the decision issued as a result of a hearing conducted at the July 18, 2017 meeting.

F. FUTURE COMMISSION REVIEWS OF REPORTED BANKRUPTCIES – The Commission discussed the intent of reviewing bankruptcies disclosed by salespersons and brokers on their applications. Following discussion, Commissioner Cronin offered to review bankruptcy schedule forms and report back on which may be helpful for future reviews. If needed, future rule changes can be requested to require those forms.

G. Chair Jones recessed the meeting at 9:23 for a short break.

H. Chair Jones reconvened the meeting at 9:38.

V. **PUBLIC HEARING, DOCKET 2016-040 CALLAHAN v. MCINNIS and DOCKET 2016-43 RICH v. MCINNIS**

Chair Jones asked Commissioner Cronin to preside. The rules for conducting hearings were read to all parties. The prosecution was conducted by REC Investigator Kinsman Corthell. The

respondent, Mr. Christopher McInnis, appeared before the Commission and was represented by attorney Peter Callaghan. The oath was given to all parties prior to their testimonies. No objections were voiced regarding exhibits previously submitted by Investigator Corthell and attorney Callaghan and they were admitted as full exhibits.

The matter proceeded to hearing. Testimony and questions continued until Commissioner Cronin recessed the meeting at 11:46 for a short break. The meeting reconvened at 12:05. During the hearing Exhibits 6 and 7 were introduced, Exhibit 6 was declined, Exhibit 7 was admitted.

**VI. PRE-HEARING CONFERENCE DOCKET 2016-064 KIME v. NIPPE**

Commissioner Cronin informed the Commission that during the recess he conducted the scheduled pre-conference meeting for docket 2016-064. He considered the meeting productive and is hopeful that a resolution can be reached.

**VII. PUBLIC HEARING DOCKET 2016-040 AND 2016-43 CONTINUED.**

The hearing for 2016-040 and 2016-032 continued. Commissioner Cronin recessed the meeting at 1:35 for a short break, and reconvened the meeting at 1:48. The hearing continued.

Following questions and cross-examinations from Investigator Corthell and attorney Callaghan, and questions from the Commission, both parties provided closing statements. With no further testimony to be presented, presiding officer Cronin closed the hearing at 3:02 and announced deliberation would be conducted at a time to be determined.

Chair Jones presided.

**VIII. NON-PUBLIC SESSION –**

At 3:05 Chair Jones asked for a motion to go in to a non-public session. On a motion by Commissioner Cronin, seconded by Commissioner Lipnick, the Commission, by roll call vote, voted to conduct a non-public session for the purpose of the reading and approval of the non-public minutes of the July 18, 2017 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 –**

On an appropriate motion, the Commission adjourned the non-public meeting and immediately reconvened the public meeting

**X. NON-PUBLIC MINUTES SEALED –**

On an appropriate motion, the Commission unanimously 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. DELIBERATION DOCKET 2016-040 CALLAHAN v. MCINNIS and DOCKET 2016-43 RICH v. MCINNIS**

Following careful review of the facts presented at the hearing, the Commission found on each allegation:

- A. 331-A:25-a, I. No violation.
- B. 331-A:25-a(II). Yes, violation.
- C. 331-A:25-b, II(a). No violation.
- D. 331-A:25-b, II(b). No violation.
- E. 331-A:26, II. Yes, violation
- F. 331-A:26, IX. No violation.
- G. 331-A:26, XVIII. No violation.
- H. 331-A:26, XIX. No violation.
- I. 331-A:26, XXII(a)(1). Yes, violation
- J. 331-A:26, XXII(a)(2). No violation.
- K. 331-A:26, XXII(b). Yes, violation.
- L. 331-A:26, XXVIII. No violation.
- M. 331-A:26, XXIX. No violation.
- N. 331-A:26, XXXV. No violation.
- O. 331-A:26, XXXVI. No violation.

The Commission determined that Mr. McInnis shall be assessed a fine of \$500.00 for each of the four allegations found to be a violation for a total of \$2,000. Furthermore, Mr. McInnis shall be required to complete a classroom course on disclosures in addition to his required continuing education. The fine and completed course are due within 90 days.

**XII. UPCOMING CORE PROVIDER COURSE –**

The Commission plans to attend the annual course to be held on October 20, 2017. Some of the providers in attendance at the meeting agreed to help develop and coordinate the meeting. REC staff will find a location to house the meeting. In the past the meeting was held at DES and perhaps Department of Safety locations.

**XIII. MEETING ADJOURNED –**

At 5:02 Commissioner Cronin moved to adjourn, seconded by Commissioner Lipnick. The motion was approved unanimously.