

**State of New Hampshire
Office of Professional Licensure & Certification
NH Real Estate Commission
Concord, New Hampshire**

Eric Pelletier
Sync Training LLC d/b/a Chadbourn School of Real Estate
License No.: 069217
(Adjudicatory/Disciplinary Proceeding)

Docket No. 2019-012

FINAL DECISION AND ORDER

Before the New Hampshire Office of Professional Licensure & Certification, (the “OPLC”), New Hampshire Real Estate Commission (“NHREC” of the “Commission”), came The Matter of Eric Pelletier, & Sync Training LLC, d/b/a Chadbourn School of Real Estate for an adjudicatory/disciplinary proceeding Docketed as Number 2019-012.

BACKGROUND INFORMATION

This proceeding was commenced on June 18, 2019 by a Notice of Hearing, dated May 17, 2019, to determine whether Mr. Pelletier, a licensed New Hampshire Real Estate Broker and approved/accredited course instructor committed certain violations of statutory law and rules governing his practice, being so licensed in the State of New Hampshire as follows:

- A. Whether as an accredited /approved instructor, approved by the New Hampshire Real Estate Commission (“NHREC”) Respondent, in his capacity as licensee and/or instructor violated NH RSA 331-A: 20 V (b)(c)(f) (g)(k)(m):
- b) *Violating any of the provisions of this chapter, or any rules adopted or order issued pursuant to this chapter.*
 - (c) *Advertising the availability of accredited courses in a false, misleading, or deceptive manner.*

(f) Engaging in conduct, which demonstrates incompetence.

(g) Providing an affidavit of completion of an accredited course to a licensee or a potential licensee who has not completed the required hours of such course.

(k): Demonstrating unprofessional conduct as defined by RSA 331-A:2, XV, or, when presenting a course to licensees or potential licensees, engaging in inappropriate conduct.

(m): Offering or providing a course for credit that has not yet been accredited or whose accreditation has expired.

B. Whether as an accredited /approved instructor, approved by the NHREC, Respondent, in his capacity as licensee and/or instructor violated NH RSA 331-A: 26, II, IV, V, VII, IX, XXIX, XXVI, XXXVI:

II. Violating any of the provisions of this chapter, or any rules adopted or order issued pursuant to this chapter.

IV. Making, printing, publishing, distributing, or causing, authorizing or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or licensee's principal, and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known of the falsity of the statements, descriptions or promises.

V. Knowingly committing, or being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device, whereby any other person relies upon the word, representation or conduct of the licensee.

VII. Conversion of any money, contract, deed, note, mortgage, abstract or other evidence of title, to the licensee's own use, to the use of the licensee's principal, or of any other person, when delivered to the licensee in trust or on condition, in violation of the trust or before the happening of the condition. Failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within 30 days after the owner is

entitled to and makes demand for such evidence, shall be prima facie evidence of such conversion.

IX. Failing, upon demand, to disclose any information within the licensee's knowledge, or to produce any document, book or record in the licensee's possession for inspection of and copying by the commission or its authorized representatives acting under authority of law.

XXIX: Unprofessional conduct defined in RSA 331-A:2, XV.

XXXV: Failure to produce any document, book or record, in the licensee's possession or under the licensee's control, concerning any real estate transaction under investigation by the commission for inspection and copying.

XXXVI. Demonstrating untrustworthiness or incompetency to act as a broker or salesperson.

- C. Whether as an accredited /approved instructor, approved by the NHREC, Respondent, in his capacity as licensee and/or instructor violated Rea 101.02 Unprofessional Conduct. “Unprofessional conduct” as used in RSA 331-A, means any conduct in violation of RSA 331-A:26.

The matter aforesaid was prosecuted by Michael W. Porter, Esq., for the OPLC-Real Estate Commission. Respondent was present for a show-cause hearing scheduled immediately prior to the commencement of this adjudicatory hearing, HOWEVER, at the end of the show-cause hearing Respondent removed himself from any further proceedings. Respondent walked out of the hearing room after being admonished by Presiding Commissioner Hyde that Respondent has the right to be heard and present his case before the commission. Respondent chose not to participate and removed himself from the proceedings.

Respondent was prosecuted in absentia.

The following Commission members were present and participated in the hearing:¹

Steven Hyde, Esq., Presiding Commissioner;

Paul Lipnick, Commissioner;

Richard Hinch, Commissioner;

Susan Doyle, Commissioner

Dan Jones, Chairman (Recused/ Evaluator)

PETITIONER'S EXHIBITS:

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

1. Two invitations emailed to licensees by Respondent.
(Provided by Luba Fedorov and Christina Santos Gordon)
2. Respondent's application for course approval with signature date and date of receipt.
3. Luba Fedorov email to Respondent along with Response.
4. On-line renewal verification Luba Fedorov.
5. Email dated March 9, 2019 between Rebecca Beauchemin and Respondent.

Also an email to Rick Wisler of NHREC.

6. March 12, 2019 Rick Wisler email to Respondent.
Memorandum to Commissioners.
7. Letter to Respondent.
8. Donna Hannemann Application for renewal.
9. Donna Hannemann Affidavit received from Respondent, Core Course.
(Course number written in by NHREC employee)
10. Joanne Keefe license renewal along with 2 course affidavits signed by Respondent.
11. Core Course taught February 20, 2019. Affidavit reflects March 22, 2019.
(After course was approved)
12. Course taught February 27, 2019. Affidavits reflect March 22, 2019.

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

13. Application for course approval: Seller Representative Specialist Designation 12 hours, not 16 as advertised by Respondent.
14. All correspondence Vandy Garnham had with Respondent. As of April 23, 2019 Ms. Garnham still had not received a refund for \$275.
15. Secretary of State filing(s) and verification.
16. Antoinette "Toni" Knott email with Continuing Education Credit Affidavit for course she never attended.
17. Respondent's answer received April 12, 2019.
18. Dawn Hedtke (REAP) verification Respondent no longer eligible to teach NAR courses. Verification Respondent no longer authorized to use copyright material belonging to NAR. Evidence Respondent owes over \$7,000 to REAB.
19. Addendum/Amendment to the original complaint.
20. May 7, 2019 Request for production of documents signed for 5/9/2019 and Respondent failed to answer as directed in the letter.
21. Original complaint.

RESPONDENT'S EXHIBIT'S.

- A. Respondent provided no exhibits. Respondent refused to participate in adjudicatory hearing.

LIST OF WITNESSES:

- A. Rick Wisler, Administrator III, OPLC-Real Estate Commission**
- B. Rebecca Beauchemin**
- C. Luba Fedorov**
- D. Joanne Keefe**
- E. Donna Hannemann**
- F. Vandy Garnham**
- G. Antoinette Knott**

FINDINGS OF FACT

1. The Commission on April 8, 2014 first issued respondent a New Hampshire Real Estate Broker license.
2. Respondent is a licensed Broker and holds license number 069217.
3. At all times relevant to the issues presented in the instant matter the Respondent was a licensed Real Estate Broker and was so licensed at the time of the filing of this complaint.
4. In addition to being a licensed Broker, Respondent was also the managing member of SYNC Training LLC d/b/a Chadbourn School of Real Estate.
5. SYNC Training LLC d/b/a Chadbourn School of Real Estate, and Mr. Pelletier as managing member, was an accredited provider for elective real estate courses, approved and accredited by the NHREC since July 5, 2018.
6. Respondent was not an accredited or approved CORE course instructor until March 18, 2019.
7. On January 14, 2019, Respondent sent out an invitation to NH licensees offering an NHREC approved Core class for 3 Credit hours to be taught at LAER Realty Partners-Tewksbury, MA on Wednesday February 27, 2019. Respondent charged attendees twenty-five dollars (\$25.00) per person.
8. As of January 14, 2019, when Respondent mailed this invitation to licensees, he had not yet submitted his application for approval of the Core course with the NHREC.
9. On February 18, 2019, Respondent sent out an invitation to NH licensees offering a NHREC approved Core course for 3 credit hours scheduled for February 20, 2019 at LAER Realty Partners-Beauchemin & Associates, Bedford, NH.

10. As of February 18, 2019, Respondent had not yet submitted his application for approval of the Core course with the NHREC.
11. On February 19, 2019, Respondent signed his NHREC application for the Core course Approval.
12. On February 20, 2019, Respondent taught an unapproved Core course for 3 NH CE's at the LAER- Bedford, Location. The course had not yet been submitted to NHREC for review and approval. Eight licensees attended this unapproved class.
13. On February 25, 2019, Respondent's application for approval of the Core Course was received by the NHREC. The application had a date stamp depicting February 25, 2019 on the application.
14. Respondent admitted in his response to the original complaint he hand delivered the application for course approval to the NHREC.
15. On February 27, 2019, Respondent taught an unapproved Core Course for 3 NH CE's at the LAER office in Massachusetts. Respondent charged each attendee \$25 per person for the unapproved NHREC Core course. This course had been submitted to NHREC only two days prior and had not yet been approved.
16. On March 4, 2019, Luba Fedorov, A NH Licensee, emailed Respondent asking when Respondent will be sending her the affidavit from the February 20, 2019 Core course as she has to renew her license.
17. Same date, Respondent emailed Fedorov telling her she would receive her affidavit shortly. He further told Fedorov he had to call the NHREC to obtain the course number, which was not in fact true.
18. No course number had been assigned to the NH Core course yet as the course had not yet been approved by the NHREC.

19. On March 5, 2019, Fedorov renewed her license on- line. She input Respondent's name under course number. Under "Category, she input Core. Under date completed, she wrote 2/20/2019.
20. On March 9, 2019, there was an email exchange between Rebecca Beauchemin, owner/managing broker for LAER Realty Partners-Beauchemin & Associates and Respondent. In this exchange, Respondent emailed Affidavits to Beauchemin.
21. On March 12, 2019, Rebecca Beauchemin emailed Rick Wisler, Administrator III with the OPLC-NHREC. Beauchemin sought guidance with regard to the affidavits she received from Respondent. Respondent affirmed on the affidavits attendees attended a Core course on March 9, 2019, when in fact they had taken the course February 20, 2019.
22. On March 12, 2019, Rick Wisler emailed Respondent with a request for additional information. Mr. Wisler testified to this and the email is in evidence.
23. The Core course reflected on the March 9, 2019 affidavits was not approved as of March 9, 2019, when Respondent verified and authenticated the course attendance and accrual of 3 CE's.
24. On March 14, 2019, Mr. Wisler spoke with Respondent over the telephone. During this conversation, Respondent informed Mr. Wisler that Respondent did not teach the course for credit. Mr. Wisler then verbally requested the information requested in the March 12, 2019 email.
25. The on-line advertisements of the February 20, 2019 and February 27, 2019 courses taught by Respondent report these courses were taught for 3 CE credits contrary to what Respondent told Mr. Wisler over the telephone and later confirmed in his response to the original complaint.

26. On March 18, 2019, NHREC mailed a letter to Respondent approving the accreditation of the NH Core course effective March 18, 2019 set to expire March 19, 2019.
27. On March 19, 2019, Donna L. Hannemann, submitted her application for renewal of her salesperson license set to expire March 29, 2019. This submission was received by NHREC staff in a timely manner.
28. As part of her application, Ms. Hannemann provided a Continuing Education Affidavit, signed by Mr. Pelletier, dated March 9, 2019 with all the pertinent information filled out with the exception of the course number. This was left blank. (The course number was filled in by an NHREC employee due to the course being approved on March 18, 2019 and not realizing the course affidavit was issued March 9, 2019). This affidavit reflects a 3- Hour CORE course titled, NHREC Core, taught by Mr. Pelletier, at a time the course was not yet approved by the Commission.
29. The affidavit submitted by Ms. Hannemann contradicts Respondent's statement to Mr. Wisler the course was taught for non-credit hours.
30. The affidavit submitted by Ms. Hannemann was not considered valid by NHREC staff and placed Ms. Hannemann in jeopardy of having her license expire based on the fact the Core course taught to Ms. Hannemann was not approved by the Commission on the date the course was taught.
31. Ms. Hannemann testified many in her brokerage firm took the same course with her on February 20, 2019.
32. Ms. Hannemann was informed by NHREC staff that the 3-hour Core course she submitted for renewal was not valid and she had until March 29, 2019 to complete the required course in order to renew on or before March 29, 2019, the day her license is scheduled to expire.

33. On March 21, 2019, Inv. Porter informed Ms. Fedorov over the telephone, the 3-hour Core course she submitted for renewal is not valid and she will have to re-take the Core course within thirty days to ensure her renewal is not reversed.
34. As of March 21, 2019, the NHREC was unable to ascertain exactly how many additional licensees received credit for an unapproved Core course taught by Mr. Pelletier.
35. On March 23, 2019, NHREC filed a complaint against Respondent.
35. On March 25, 2019, Joanne Keefe attempted to renew her salesperson license. Ms. Keefe mailed her application, which was received by NHREC March 11, 2019 however, there were issues relating to the lack of Core requirement. NHREC staff contacted Ms. Keefe requesting the required 3-hour CE Core course. Ms. Keefe indicated she was trying to obtain the affidavit from the course provider, Eric Pelletier (Respondent).
36. Ms. Keefe emailed a copy of the Core affidavit to NHREC staff on March 25, 2019. Upon reviewing the affidavit, Respondent was listed as the instructor.
37. Ms. Keefe had two affidavits from Respondent. One dated March 9, 2019 using an elective number under "Course Number" and Core under "Course Type". The "Attendance Certification" was dated March 9, 2019. "Location" was Manchester, NH.
38. The second course affidavit provide to Ms. Keefe by Respondent was dated March 22, 2019 but this time the approved Core course number, approved on March 18, 2019, was inserted. The affidavit also listed the class location as Bedford, NH when no course was taught in Bedford, NH on that date.

39. Ms. Keefe did not attend any courses on March 9, 2019 or March 22, 2019. Ms. Keefe reports she attended the class in Massachusetts, not Manchester, NH or Bedford, NH as reflected on the course affidavits. She further testified she attended the class on February 27, 2019.
40. Ms. Keefe testified she and possibly 6 additional licensees attended the Core course taught by Respondent on February 27, 2019 in Massachusetts.
41. Each participant, including Ms. Keefe, paid twenty-five (\$25) per person to take the course for which they believed they were receiving the 3 credit hours.
42. Since taking the Core course February 27, 2019, Ms. Keefe attempted to obtain her affidavit from Mr. Pelletier with no initial success.
43. Due to the NH Core course being unapproved at the time Respondent taught the course, Ms. Keefe had insufficient credit hours for renewal and her license expired at midnight March 25, 2019.
44. Ms. Keefe took an on-line Core course in an attempt to avoid expiration. The cost of this course was \$50 to \$75, which Ms. Keefe had to pay in addition to the \$25 she paid for the unapproved course. The NHREC waived the late fee for Ms. Keefe's renewal.
45. On March 26, 2019, Ms. Keefe provided NHREC Staff with sixteen (16) affidavits signed by Respondent; all indicating he taught the Core Course C-056 on March 22, 2019 at the Bedford, NH office.
46. Of the 16 affidavits submitted by Respondent for the unapproved NH Core course half were taught by Respondent in Massachusetts on February 27, 2019. The remainder were taught by Respondent in Bedford, NH February 20, 2019. Both prior to the NHREC approving the Core course.

47. On April 1, 2019, NHREC staff was reviewing the approved course files in the filing room. NHREC staff pulled the file pertaining to Chadbourn Real Estate School and Sync Training LLC.
48. NHREC staff noticed a folder containing two emails. One of the emails related to a returned check payable to the NHREC, which Respondent ultimately paid on October 5, 2019. Another email was from licensee Vandy Garnham indicating Ms. Garnham signed up for a September 2018 class, which Respondent cancelled. The email listed the various steps Ms. Garnham took to recover the \$275 she spent to register for the course offered by Respondent.
49. Ms. Garnham testified she signed up for a “Seller Representative Specialist Designation” course. This course was scheduled for Tuesday September 18, 2018 and September 19, 2019 from 9:00 AM to 4:00 PM each day. That would be a total of 14 hours.
50. Mr. Pelletier advertised this course as “16 NH CEU’s”. The course was not approved by the NHREC for 16 hours but rather, 12 hours.
51. The cost of the class was \$275, which Ms. Garnham paid.
52. Ms. Garnham had to cancel her attendance to the class due to health issues. She requested from Respondent and was granted permission to take the next class.
53. The next course was scheduled for a later date. Ms. Garnham engaged in text messages with Respondent at which time he informed her the class had been cancelled due to a family medical issue of his own.
54. Ms. Garnham requested a refund and was informed refunds would be issued.
55. On December 27, 2018, Ms. Garnham emailed Respondent again asking for her refund. Respondent answered by stating a refund was mailed to Ms. Garnham and Respondent

- would check with the bank and verify it has not yet cleared the bank and then reissue Ms. Garnham another check.
56. On January 29, 2019, Ms. Garnham emailed Respondent again looking for the refund he promised her. She never heard back from Respondent.
 57. On February 28, 2019, Ms. Garnham emailed the NHREC to complain about Respondent. This email was placed in his instructor file where NHREC staff found it on April 1, 2019.
 58. Respondent is the owner- operator of Sync Training LLC d/b/a Chadbourn Real Estate School. The company was created May 29, 2018. As of April 1, 2019, Sync Training, LLC was no longer in good standing with the New Hampshire Secretary of State. At the time Respondent applied for course approval, Sync Training, LLC was in good standing.
 59. On April 18, 2019, NHREC staff spoke with Dawn Headtke, Real Estate Buyer's Agent Council ("REBAC") Business Development Manager, Chicago, IL.
 60. REBAC is a subsidiary of the National Association of Realtors ("NAR").
 61. Ms. Headtke is familiar with Respondent as he was an instructor with REBAC through NAR.
 62. The materials used by Respondent for these courses require permission from REBAC and/or NAR as this is copyright material.
 63. When Mr. Pelletier teaches a NAR certified course, he was required to submit a list of attendees to NAR so the attendees could receive their designation and the NAR would know how much to bill Respondent for royalties.
 64. Respondent was required to pay the NAR royalties on a per student basis.
 65. Respondent failed to pay the royalties as required and as a result, he was removed from the NAR instructor list around February 2019.

66. The REBAC/NAR courses are approved by the NHREC as elective courses. As part of the NHREC course approval process, the applicant is required to provide materials for review. If copyrighted material is being used the applicant must sign an affidavit affirming the owner of the copyrighted materials authorizes the applicants use.
67. Respondent did provide the affidavit to the NHREC indicating at the time of submission, Respondent was authorized to use the NAR copyrighted material.
68. Since the time of submission to the NHREC, Respondent had his permission to use copyrighted material revoked due to failure to pay royalties to the NAR.
69. The total amount of royalties due and owing REAB / NAR as of June 18, 2019 is approximately \$7,705.00.
70. On April 22, 2019 NHREC staff received correspondence from a licensee, Antoinette “Toni” Knott, who registered and paid \$25 to attend the February 27, 2019 unapproved NH Core training in Tewksbury, MA hosted by LAER Realty Professionals and taught by Respondent.
71. Knott testified she did not attend the February 27, 2019 class, as she was no longer associated with LAER Realty Property.
72. Knott testified she received a Continuing Education Credit Affidavit from Respondent indicating she attended the unapproved NH Core class in Bedford, NH, on March 22, 2019. This affidavit has the March 18, 2019 approved course number.
73. Ms. Knott testified she paid for the class but did not go because she was no longer associated with LAER Realty. She asked for a refund prior to the class but did not receive one. As of the date of the hearing, Ms. Knott still has not received her refund from Respondent. She did however receive the certificate indicating attendance.

74. On April 12, 2019, Respondent answered the complaint filed against him by the NHREC.
75. As part of his answer, Respondent admitted to the alleged wrongdoing.
76. Respondent admitted to sending blank affidavits to the broker and managing broker of LAER Realty Partners.
77. Respondent admitted he subsequently reissued a second batch of affidavits with a later attendance date on them reflecting the NH Core Course was approved by the NHREC.
78. Respondent admitted telling Rick Wisler he did not teach the course for credit hours when in fact he was teaching the course for credit hours.
79. Respondent also included a roster of each licensee who took the unapproved NH Core Course. In this packet, Respondent also drafted a letter, which he reported was emailed to each licensee explaining the course he taught was not approved by the NH Real Estate Commission at the time he taught and for those in Massachusetts who he charged \$25, he is offering a refund to each.
80. On May 7, 2019, NHREC staff mailed a letter to Respondent requesting production of documents relevant to this matter. NHREC staff mailed the letter certified and regular mail.
81. On May 9, 2019, Respondent's principal broker signed for the certified mail as verified by the receipt received by NHREC staff on May 10, 2019. Respondent had until May 15, 2019 to respond with the requested production of documents and failed to do so.
82. As of June 18, 2019, Respondent continued to fail to provide the material requested in the May 7, 2019 letter.
83. Seven witnesses testified credibly to the facts as stated. Exhibits were also presented by the prosecution and accepted during the hearing.

CONCLUSIONS OF LAW

The burden of proof rests on the prosecution to prove, by a preponderance of the evidence Respondent's actions constitute a violation of statute or rule as set forth in this matter. Evidence in this matter has established; by a preponderance of the evidence, that Respondent's actions constitute he has committed statutory violations governing licensed Real Estate Brokers in the State of New Hampshire as follows:

A. The Respondent is found to be in violation of **NH RSA 331-A: 20 V:**

(b) Violating any of the provisions of this chapter, or any rules adopted or order issued pursuant to this chapter.

WHEN: Respondent, as a licensee and accredited elective instructor violated sections (c), (g), (k) and (m), which are provisions of this chapter, as set forth in further detail below.

Based on testimony offered at the hearing coupled with exhibits presented at the hearing, the prosecution has met its burden of proof by a preponderance of the evidence Respondent violated this section of the statute.

(c) Advertising the availability of accredited courses in a false, misleading, or deceptive manner.

WHEN: On Sunday September 16, 2018, Respondent advertised the Seller Representative Specialist Designation class in an email to licensee Vandy Garnham as having been approved for sixteen (16) Credit Hours when the Respondent applied for 12 credit hours from the NHREC and the NHREC approved the course for twelve (12) credit hours. (See Exhibit 13). Rick Wisler and Vandy Garnham testified credibly to these events.

WHEN: between January 1, 2019 and February 27, 2019, Respondent, acting as a member of Sync Training LLC d/b/a Chadbourn School of Real Estate, and as an Associate Broker, advertised a “NHREC Core Class (3 Core CEUs)” to be held on February 20, 2019 and February 27, 2019 when Respondent had not yet received NHREC approval to teach any Core course. (Exhibit 1)

Luba Fedorov, Donna Hannemann, Joanne Keefe, and Rebecca Beauchemin testified credibly to this information. Respondent, by way of answering the original complaint, admits to this violation. Respondent’s admission is accepted as true.

(f) Engaging in conduct which demonstrates incompetence.

WHEN: Respondent, as a licensee and accredited instructor violated sections (b), (c), (g), (k) and, (m), which are provisions of this chapter, as detailed herein.

Credible witness testimony and exhibits were provided at the hearing.

(g) Providing an affidavit of completion of an accredited course to a licensee or a potential licensee who has not completed the required hours of such course.

WHEN: Respondent, acting on behalf of Sync Training LLC d/b/a Chadbourn School of Real Estate, completed a “Continuing Education Affidavit” attesting that Antoinette Knott attended a Core class on March 22, 2019 in Bedford, NH when Ms. Knott never attended such a class, nor was a class ever held on March 22, 2019.

Ms. Knott testified credibly she originally signed up for the February 27, 2019 Core class (believing it was an NHREC approved class) offered by Respondent. She further testified she paid twenty-five dollars (\$25.00) for this Core class, but left the employment of LAER Realty Partners and never actually attended the February 27, 2019 class. Ms. Knott also testified credibly she never attended any Core class taught by Respondent on March 22, 2019 in Bedford, NH, or any location.

(k): Demonstrating unprofessional conduct as defined by RSA 331-A:2, XV, or, when presenting a course to licensees or potential licensees, engaging in inappropriate conduct.

WHEN: Respondents actions violated sections (c), (g), and (m) of this statute. These actions were unlawful, dishonorable, unethical, or immoral as defined under NH RSA 331-A:2, XV. (Refer to conclusions of law in (c),(g), and (m).)

Based on credible testimony and exhibits offered at the hearing the prosecution has met its burden by a preponderance of the evidence, Respondent violated this section of the statute.

(m): Offering or providing a course for credit that has not yet been accredited or whose accreditation has expired.

WHEN: between January 1, 2019 and February 27, 2019, Respondent, acting as a member of Sync Training LLC d/b/a Chadbourn School of Real Estate, and as an Associate Broker, advertised a “NHREC Core Class (3 Core CEUs)” to be held on February 20, 2019 and February 27, 2019 when Respondent had not yet received NHREC approval to teach any Core course. (Exhibit 1)

Respondent admits to this in his answer to the original complaint. Respondent’s admission is accepted as true.

On February 20, 2019, Respondent did in fact teach the unapproved NH Core class to at least 8 NH licensees and again taught the unapproved class on February 27, 2019 (where Respondent charged each attendee \$25 per person). (Exhibit 1 and Exhibit 17) Rick Wisler, Luba Fedorov, Donna Hannemann, Joanne Keefe, and Rebecca Beauchemin testified credibly to this information.

B. The Respondent is found to be in **violation** of **NH RSA 331-A: 26:**

II. Violating any of the provisions of this chapter, or any rules adopted or order issued pursuant to this chapter.

Based on credible witness testimony and the conclusions of law in IV, V, VII, IX, XXIX, XXXV, XXXVI, Respondent violated several provisions of this chapter.

IV. Making, printing, publishing, distributing, or causing, authorizing or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or licensee's principal, and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known of the falsity of the statements, descriptions or promises.

WHEN: On Sunday September 16, 2018, Respondent advertised the Seller Representative Specialist Designation class in an email to licensee Vandy Garnham as having been approved for sixteen (16) Credit Hours when the Respondent applied for 12 credit hours from the NHREC and the NHREC approved the course for twelve (12) credit hours.

This advertisement induced Vandy Garnham to act when she paid the two hundred seventy five dollar (\$275.00) registration fee for this designation course when the Respondent knew or through exercise of reasonable care would have known the falsity of his advertisement. (See Exhibit 13). Rick Wisler and Vandy Garnham testified credibly to these events.

WHEN: between January 1, 2019 and February 27, 2019, Respondent, acting as a member of Sync Training LLC d/b/a Chadbourn School of Real Estate, and as an Associate Broker, advertised a "NHREC Core Class (3 Core CEUs)" to be held on

February 20, 2019 and February 27, 2019 when Respondent had not yet received NHREC approval to teach any Core course. (Exhibit 1)

Luba Fedorov, Donna Hannemann, Joanne Keefe, and Rebecca Beauchemin testified they relied upon Respondents false statements which Respondent knew were false at the time he advertised and made these statements.

Respondent, in his answer to the complaint, admits to the falsity of his statements and these admissions are accepted as true.

V. Knowingly committing, or being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device, whereby any other person relies upon the word, representation or conduct of the licensee.

Witnesses Luba Fedorov, Donna Hannemann, Joanne Keefe, and Rebecca Beauchemin; all licensees in the State of New Hampshire, testified credibly they relied upon the word, representation, or conduct of Respondent as both a licensee and instructor, that the Core course he offered and ultimately taught February 20, 2019 and February 27, 2019, was approved by the NHREC. Additionally, these witnesses relied upon the word, representation, and conduct of Respondent the NH Core course was approved for three (3) continuing education credits.

Vandy Garnham relied upon Respondent's word, representation, or conduct as an instructor and licensee, when he promised to refund her money for a class Respondent cancelled, and per his own refund policy, approved by the NHREC, was required to refund Ms. Garnham the \$275 she paid for the designation class ultimately cancelled by Respondent.

All witnesses, with the exception of Vandy Garnham who did not attend the unapproved NH Core course, testified in order to renew their license, completion of a 3 hour NHREC

Certified Core Course is required.

Ms. Fedorov, Ms. Hannemann, and Ms. Keefe testified they used this Core course for credits toward their licensure renewal. Ms. Fedorov testified she attended the class and had to follow up with Respondent who still did not receive her certificate of completion in a timely manner. As a result, Ms. Fedorov renewed her license on-line in order to prevent her license from expiring. It wasn't until she received a phone call from the NHREC did she realize the course taught by Respondent was not approved.

Ms. Hannemann and Ms. Keefe attempted to renew their licenses and were unable to do so as neither had the required 3- hour Core course mandated for licensure renewal. Both licensees had their licenses expire as a result of Respondent's actions.

The witnesses testified credibly to the issues relating to this section of the statute.

VII. Conversion of any money, contract, deed, note, mortgage, abstract or other evidence of title, to the licensee's own use, to the use of the licensee's principal, or of any other person, when delivered to the licensee in trust or on condition, in violation of the trust or before the happening of the condition. Failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within 30 days after the owner is entitled to and makes demand for such evidence, shall be prima facie evidence of such conversion.

WHEN: Ms. Garnham testified credibly Respondent failed to reimburse her the \$275 registration fee she paid for the Sellers Representative Specialist Designation class in September 2018. Ms. Garnham could not attend the original class date due to a serious illness. Respondent authorized Ms. Garnham to take another scheduled class. Respondent cancelled the next class due to family medical issues. He promised Ms. Garnham in November 2018 he would refund her money. A series of emails, text messages, and other communications were exchanged between the parties whereby

Respondent assured Ms. Garnham he would refund the \$275 fee. As of the date of this hearing, Ms. Garnham still has not received the refund for this cancelled course even though Respondent informed her in December 2018 he would check his bank records to determine if the check cleared.

Rick Wisler, Administrator III for the OPLC-Real Estate Commission also testified credibly as part of the Seller's Representative Specialist Designation course approval through the NHREC, instructors are required to provide a refund policy. Respondent's refund policy essentially stated if class was cancelled in the event of sickness or accident to the instructor, fees will be refunded to registrants. It was determined Ms. Garnham was a registrant and as such, entitled to the refund of the \$275 fee paid to Respondent and/or his company. Where the refund is beyond the 30-day threshold as stated in the statute, and Respondent continues to hold these funds beyond 30 days, even after Ms. Garnham requested these funds multiple times, there is sufficient evidence to prove by a preponderance of the evidence, respondent converted funds belonging to Ms. Garnham and continues to do so to this day.

WHEN: Respondent admitted to charging licensees \$25 per person for the unapproved/unaccredited Core Course, his admission is accepted as true. Respondent reports he emailed participants from the Tewksbury location where he wrongfully taught the unapproved/unaccredited NH Core course requesting they contact him if they would like a refund.

Joanne Keefe testified credibly she paid the \$25 fee to attend the February 27, 2019 course and as a direct result, had to pay for another NH Core Course in order to meet licensure renewal requirements.

Respondent was aware at the time he charged the \$25 per person he was not accredited or

approved to teach the NH Core course. He wrongfully converted \$25 per person from licensees who registered for the class. Respondent's answer to the original complaint lists 9 NH licensees who paid \$25 per person for the unaccredited/unapproved course. The total amount converted, per evidence provided by Respondent (Exhibit 17) totals: \$225 just for the February 27, 2019 unapproved/unaccredited course.

IX. Failing, upon demand, to disclose any information within the licensee's knowledge, or to produce any document, book or record in the licensee's possession for inspection of and copying by the commission or its authorized representatives acting under authority of law.

WHEN: On May 7, 2019 the OPLC-Real Estate Commission sent Respondent a certified letter requesting specific information relative to the investigation of this case. The letter was sent to Respondent's principal broker at the time, April Dunn. Ms. Dunn signed for the certified letter on May 9, 2019. Respondent testified in the earlier show cause hearing which was the result of this violation, his principal broker contacted him upon receipt and sent photos from her phone to respondent's phone. Respondent indicated he waited approximately 8 days to pick the certified letter up from his principal broker. Respondent testified by the time he picked up the letter, the deadline to submit the requested information passed and he did not and still has not provided the NHREC with the documentation requested May 7, 2019.

XXIX: Unprofessional conduct defined in RSA 331-A:2, XV. XV. "Unprofessional conduct" means any action by a licensee or accredited individual, institution, or organization which is unlawful, dishonorable, unethical, or immoral.

WHEN: Respondent violated the following provisions based on the conclusions of law reached in the following sections: IV, V, VII, IX, XXXVI.

Respondent further **admits** in his answer, “I concede I was unprofessional and not within the RSA’s, that I am fully aware of and familiar with. I am willing to accept the finding of the Commission for my poor judgement.” Accepting his statement as true, combined with the credible witness testimony presented at the hearing, and exhibits to support this credible testimony, sufficient facts were proven by the prosecution by a preponderance of the evidence, Respondent violated this section of the statute.

XXXV: Failure to produce any document, book or record, in the licensee's possession or under the licensee's control, concerning any real estate transaction under investigation by the commission for inspection and copying.

WITHDRAWN BY THE PROSECUTION

XXXVI. Demonstrating untrustworthiness or incompetency to act as a broker or salesperson.

WHEN: Respondent violated sections under RSA 331-A: 26 as described in the conclusions of law above. Respondent further admits in his answer, “I concede I was unprofessional and not within the RSA’s, that I am fully aware of and familiar with. I am willing to accept the finding of the Commission for my poor judgement.” Accepting his statement as true, combined with the credible witness testimony presented at the hearing, and exhibits to support this credible testimony, sufficient facts were proven by the prosecution by a preponderance of the evidence, Respondent violated this section of the statute.

Respondent converted funds from fellow licensees (Vandy Garnham, Joanne Keefe, and at least 8 other licensees who attended the February 27, 2019 unapproved NH Core Course). Respondent committed fraud on his fellow licensees, as well as the NHREC when he falsely advertised a NH Core Course as being accredited and approved by the

NHREC when he knew at the time of this advertisement this was false. Respondent went on to teach the unapproved/ unaccredited NH Core courses and then submitted falsified affidavits not once, but twice, in an effort to defraud the NHREC.

Respondent's actions as laid out by the Prosecution and substantiated through witness testimony and exhibits demonstrate Respondent, both as a licensee and NHREC approved instructor is untrustworthy and/ or incompetent to act as a broker or salesperson. Respondent's actions led to the expiration of at least 2 licensees, the threat of expiration to others. Respondent's actions led to a licensee receiving an affidavit, generated by Respondent, indicating her attendance at a NH Core course when that course was never taught on that particular day, nor did the licensee ever attend a Core course taught by Respondent.

Respondent's actions from September 2018 through the course of this hearing demonstrate untrustworthiness or incompetence to act as a broker. The prosecution has provided sufficient facts to prove by a preponderance of the evidence Respondent violated this section of the statute.

WHEREFORE, pursuant to the authority of this Commission under NH RSA 331-A:28, it is hereby **Ordered**, by unanimous vote of the Commissioners of the New Hampshire Real Estate Commission who participated in the deliberations in this matter, that:

Respondent's accreditation and approval, and that of Sync Training LLC d/b/a Chadbourn School of Real Estate to teach ANY real estate classes currently accredited or approved is hereby; **PERMANENTLY REVOKED.**

Respondent's New Hampshire Real Estate license is hereby; **PERMANENTLY REVOKED.**

IT IS FURTHER **ORDERED** that the Respondent pay **Five-Thousand Dollars (\$5,000.00)** for the reasonable cost of investigation and prosecution of the proceeding pursuant to NH RSA 331-G:11 **due by September 30, 2019.**

IT IS FURTHER **ORDERED** that the Respondent's failure to comply with any terms or conditions imposed by this Final Order shall constitute unprofessional conduct pursuant to RSA 331-A: 26, XXIX and constitute separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

IT IS FURTHER **ORDERED** that this Final Decision and Order shall become a permanent part of the Respondent's disciplinary file, which is maintained by the Commission as a public document.

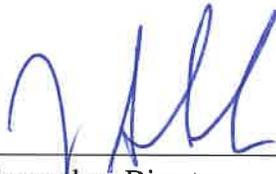
IT IS FURTHER **ORDERED** that if this decision is not appealed within 30 days of the effective date it shall become final. (See RSA 331-A:28, III).

IT IS FURTHER **ORDERED** that the effective date of this Final Decision of the Commission is the date the Commission signs this Order as set forth below.

So Ordered.

Effective Date:

8/20/19



Joseph G. Shoemaker, Director
Division of Technical Professions
NH Office of Professional Licensure and Certification
Authorized Representative of the NH Real Estate Commission