

BEFORE THE  
NEW HAMPSHIRE REAL ESTATE COMMISSION  
CONCORD NH 03301

In the Matter of:

File No.2018-014; Thomas O'Hara

Allegations: RSA 331-A:26, V; 331-A:26, XXIX; 331-A:26, XXXVI

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of real estate, the New Hampshire Real Estate Commission ("Commission") and Thomas O'Hara ("Respondent"), a real estate principal broker currently in lapsed status, but who at the time of the transaction was licensed in the State of New Hampshire, agree to resolve certain allegations of professional misconduct now pending before the Commission in accordance with the following terms and conditions:

1. The parties stipulate that the Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to NH RSA 331-A:28, RSA 331-A:29, I and RSA 541-A:31, V, and if such proceeding were commenced, the allegations against the Respondent would be:
2. Respondent, a licensed principal broker at the time of the transaction, knowingly conducted pre-listing procedures to re-list a property that was already the

subject of an active Purchase and Sale Agreement, causing others to wrongfully rely on his word or representations in violation of RSA 331-A:26, V.

3. Respondent, a licensed principal broker at the time of the transaction, demonstrated unprofessional conduct when he engaged in actions, which were found, after a civil jury trial and upheld by the New Hampshire Supreme Court, to have violated the Consumer Protection Act (CPA) NH RSA 358-A: 2 in that the jury returned an advisory verdict Respondent's conduct was an "unfair or deceptive business practice" and further finding Respondent's conduct was a "willful or knowing violation" of the CPA, pursuant to RSA 358-A:10. These actions are in violation of NH RSA 331-A:26, XXIX.

4. Respondent, a licensed principal broker at the time of the transaction, demonstrated untrustworthiness or incompetency to act as a broker when he was found, after a civil jury trial verdict, upheld on appeal with the New Hampshire Supreme Court, to have violated the Consumer Protection Act (CPA) NH RSA 358-A: 2 in that the jury returned an advisory verdict Respondent's conduct was an "unfair or deceptive business practice" and further finding Respondent's conduct was a "willful or knowing violation" of the CPA, pursuant to RSA 358-A:10. These actions are in violation of NH RSA 331-A:26, XXXVI.

5. Respondent acknowledges that this conduct set forth in paragraphs 2, 3, and 4 constitute grounds for the Commission to impose disciplinary sanctions against

Respondent pursuant to the New Hampshire Real Estate Practice Act, NH RSA 331-A and New Hampshire Real Estate rules and regulations.

WHEREFORE, the Respondent consents to the Commission imposing the following discipline pursuant to RSA 331-A:28. I:

- A. The Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:28, I. Respondent is permanently enjoined from reinstatement, renewal, and/or reapplication for a New Hampshire Real Estate Broker or Salesperson license.
- B. The Respondent shall pay a disciplinary fine in the amount of Six Thousand (\$6,000) dollars **ALL SUSPENDED** (per condition in paragraph A) as follows:
  - 1) Two-Thousand (\$2,000) dollars **ALLSUSPENDED** for violating NH RSA 331-A:26, V and;
  - 2) Two-Thousand (\$2,000) dollars **ALL SUSPENDED** for violating NH RSA 331-A:26, XXIX and;
  - 3) Two-Thousand (\$2,000) dollars **ALL SUSPENDED** for violating NH RSA 331-A:26, XXXVI.
- C. Respondent is further ordered in the event Respondent attempts to renew, reinstate or reapply for a New Hampshire Real Estate Broker or Salesperson license, Respondent **SHALL pay the suspended fines and APPEAR** before the

Commission for a hearing related to the violations of the New Hampshire Real Estate Practice Act.

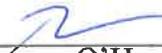
- D. The Commission may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Commission regarding Respondent's license should Respondent become apply and/or become licensed again. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall institute unprofessional conduct and shall serve as a separate and sufficient basis for further disciplinary action by the Commission.
- E. The Commission may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
- F. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Commission as a public document.
- G. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
- H. The Commissioner agrees that in return for Respondent's executing this *Settlement Agreement*, the Commission will not proceed with the formal adjudicatory process based upon the facts described herein.
- I. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.

- J. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
- K. Respondent understands that the Commission must review and accept the terms of this *Settlement Agreement*. If the Commission rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Commission during its review of this *Settlement Agreement* has prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Commission.
- L. Respondent understands pursuant to NH RSA 331-G; 11 The New Hampshire Real Estate Commission may seek investigative costs associated with this investigation.
- M. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein. This *Settlement Agreement* shall take effect as an Order of the Commission on the date it is signed by an authorized representative of the Commission.

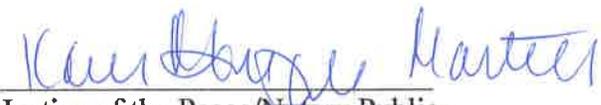
**FOR RESPONDENT**

I, Thomas O'Hara, have reviewed the foregoing Settlement Agreement settling misconduct allegations pending against me and, of my own free will and without duress, and being knowledgeable about all of the consequences, and agree to all of the terms of this Settlement Agreement. Further, Thomas O'Hara, knowingly and freely waives the right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this Settlement Agreement.

Dated: 2-20-19<sup>TOH</sup> 2018

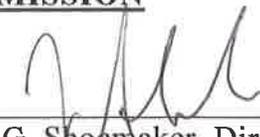
  
\_\_\_\_\_  
Thomas O'Hara  
Respondent

On this 20<sup>TH</sup> day of FEBRUARY A.D. 2018<sup>10/20/18</sup> personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.

  
\_\_\_\_\_  
Justice of the Peace/Notary Public  
KAREN LOUISE MARTELL  
My commission expires: 8/22/23

**FOR THE COMMISSION**

Dated: 2/27/19, 2018 

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