

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

In the Matter of:

Jeffrey Rigmont v. Jeffrey Ian Lucero

Docket No. 2016-058

License No: n/a

(Adjudicatory/Disciplinary Proceeding)

FINAL DECISION AND ORDER

This is a Final Decision and Order issued by New Hampshire Office of Professional Licensure & Certification, New Hampshire Real Estate Commission (“Commission”) following an adjudicatory/disciplinary proceeding in the Matter of Jeffrey Rigmont v. Jeffrey Ian Lucero (“Respondent” or “Lucero”) in Docket Number 2016-058 held on October 31, 2017.

BACKGROUND INFORMATION

This matter was heard by the New Hampshire Real Estate Commission on October 31, 2017. The Notice of Hearing was properly issued to the Respondent dated October 2, 2017 by the New Hampshire Real Estate Commission (“the Commission”), notice was provided to the Respondent that a hearing was scheduled to determine whether Respondent, unlicensed New Hampshire salesperson (previously licensed from October 6, 1997 until October 6, 1999), committed a violation or violations of statutory law and rules governing Real Estate salespersons in the State of New Hampshire as follows: statutory requirements as set forth in NH RSA 331-A; whether the Respondent engaged in the practice of real estate in violation of RSA 331-A:3 resulting in him being subjected to sanctions and disciplinary action pursuant to NH RSA 331-A:28, 331-A:29, RSA 331-A:30 and RSA 331-A:34 and New Hampshire Code of Administrative Rules Chapter Rea 200.

More specifically, the Notice of Hearing scheduled and conducted before the Commission on October 31, 2017 was to determine:

- I. Whether the Respondent engaged in the practice of real estate as a salesperson or broker, without holding valid New Hampshire license, in violation of New Hampshire RSA 331-A:3;
- II. Whether the Respondent, not being licensed or otherwise authorized according to the law of this state, shall advertise oneself as engaging in real estate brokerage activity, or shall engage in real estate brokerage activity, according to this chapter, or in any way hold oneself out as qualified to do so, or call oneself a “real estate salesperson,” “real estate broker,” or “real estate licensee”...

Testimony was received at the hearing from Jeffrey Rigmont and Jeffrey Ian Lucero. During the proceedings the following Commission members present who participated in this hearing were:¹

Daniel Jones, Presiding Officer/Chair;
Paul Lipnick, Commissioner;
Richard Hinch, Commissioner;
John Cronin, Esquire, Commissioner

COMPLAINANT'S EXHIBITS:

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

- Exhibit 1
 - Complaint Form 11 with attachments and Respondent's response with attachments.

RESPONDENT'S EXHIBITS.

- None Submitted.

LIST OF WITNESSES:

DISCUSSION

The Claims asserted against the Respondent are that Mr. Lucero, represented himself as a real estate agent and that he failed to timely return a deposit to the Complainant, Mr. Rigmont, in the amount of \$1,000.00. Additionally, Mr. Rigmont alleged that the Respondent falsely advertised the condition of the property as "very comfortable to live in as is," when Rigmont asserts that it was not habitable. The essence of this complaint at this hearing was that Respondent Lucero signed a document, albeit prepared by Rigmont, which identified Lucero as "The seller's real estate agent" when in fact he has not been licensed as a real estate agent in the State of New Hampshire since 1999. The Respondent stated that prior to signing the form entitled "Agreement" in this matter, he never held himself out to the Respondent as a real estate agent. However, the Respondent conceded that he signed that document and that he should not have done so given that he is not licensed. He testified that he did so because it was provided to him by Rigmont while they were literally at or on their way to the bank with the \$1,000.00 deposit.

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

The evidence presented at the hearing established that the Respondent did in fact violate New Hampshire laws and/or the Real Estate Commission rules/regulations. Specifically, the evidence established that the Respondent violated the following statutes in this regard: NH RSA 331-A:3 and RSA 331-A:34.

FINDINGS OF FACT

The Respondent was first issued a license as a New Hampshire real estate salesperson by the New Hampshire Real Estate Commission on October 6, 1997 but has not been licensed since October 6, 1999. Accordingly, he is unlicensed in this state as either a broker or salesperson.

Respondent advertised a mobile home for sale “available on own land in Belmont” on Craigslist.

Respondent’s advertisement would have led a reasonable person to believe that he was authorized to engage in the practice of real estate.

Complainant also executed a document entitled “Agreement” dated September 27, 2017 which identified the Respondent as “seller’s real estate agent.”

Respondent acknowledged that he should not have signed the September 27, 2017 agreement.

Respondent engaged in unlicensed activity as a real estate agent in violation of NH RSA 331-A:3 and 331-A:34.

Complainant Rigmont never closed on the property.

The Respondent accepted a deposit from Rigmont in the amount of \$1,000.00 which he has yet failed to return, despite requests from Rigmont.

The New Hampshire Real Estate Commission has authority over this unlicensed practice as set forth in New Hampshire RSA 331-A:34.

CONCLUSIONS OF LAW

The evidence in this matter has established that the Respondent has committed statutory and rule violations governing licensed real estate brokers and/or real estate salespersons in the State of New Hampshire as follows:

The Respondent, an unlicensed real estate salesperson or broker in the State of New Hampshire, held engaged in the practice of the sale of real estate and held himself out as a real estate agent, in violation of New Hampshire RSA 331-A:3 and RSA 331-A:24.

WHEREFORE, pursuant to the authority of this Commission under NH RSA 331-A:28 and RSA 331-A:34 it is hereby Ordered, by a unanimous vote of the Commissioners of the New

Hampshire Real Estate Commission of 4 - 0, who participated in the deliberations in this matter, that:

The Respondent is Ordered to pay a fine in the amount of \$1,000, to be paid within thirty (30) days of the effective date of this Order, made payable to the Treasurer, State of New Hampshire.

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.



Daniel Jones
Real Estate Commission Chair



Date