

**State of New Hampshire
Real Estate Commission
Concord, New Hampshire 03301**

In the Matter of:
Seth Barbiero
License No.: 065999
(Misconduct Allegations)

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 Seth Barbiero (“Respondent”), a Real Estate Salesperson currently licensed by the Commission, do hereby stipulate and agree to resolve certain allegations of violations of rules and laws regulating the profession now pending before the Commission according to the following terms and conditions:

1. The parties stipulate that Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to NH RSA 331-A:28, RSA 331-A:29, I, RSA 310-A:1-k, and RSA 541-A-31, V.
2. Pursuant to RSA 541-A:31, V, and RSA 310-A:1-k, III the Commission may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
3. The Commission first granted Respondent a license to practice as a Salesperson in the State of New Hampshire on October 26, 2009. Respondent holds license number 065999.
4. On April 29, 2020, the Commission received a complaint against Respondent alleging that Respondent failed to provide pertinent information regarding an inspection and root removal on a sewer line located on the subject property to his clients Gregory and Brooke

Herndon (“Complainants”), prior to the transfer of title of that property to his clients.

After the closing the sewer line required further clean out and was later replaced.

5. Subsequently, the Commission undertook an investigation through the Office of Professional Licensure and Certification Division of Enforcement (“OPLC Enforcement”).
6. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would seek to prove that Respondent violated RSA 331-A:25-c(1)(a); RSA 331-A:26, II; RSA 331-A:26, XXVIII; and RSA 331-A:26 XXIX by failing to provide pertinent information to his clients in a timely manner by the following facts:
 - A. Respondent is a Salesperson employed by The Michael Bean Group;
 - B. Respondent entered into an Exclusive Buyer Agency Agreement with the Complainants and undertook showing them the subject property;
 - C. Complainants executed a Purchase and Sales Agreement on the subject property on January 27, 2020.
 - D. Following a home inspection, an Addendum was drafted and executed on or about February 9, 2020, stating the Sellers would have the “sewer line from the house to the public street hook up inspected, repaired, and cleaned, and will provide receipt and proof of proper functioning prior to closing. Completion of this repair will satisfy Purchaser property inspection contingency.”
 - E. Sellers had the sewer line serviced by SepticPro, on or about February 11, 2020. The same day, the Sellers informed their agent the work was complete, and the Sellers’ agent informed Respondent via e-mail that the sewer line was “all cleared, scoped, and report coming...not sure how long the paperwork will take them but the job is

done.”

- F. The Sellers’ agent provided an invoice with a description of services performed to Respondent on February 14, 2020.
 - G. Though Respondent informed his clients the work was complete and the sewer line was clean, he did not provide the invoice to his clients.
 - H. Closing occurred on March 13, 2020.
 - I. The sewer line on the subject property backed up on or about May 29, 2020, and was subsequently replaced.
 - J. Respondent did not provide his clients with the invoice from SepticPro via email until they requested that Respondent send them a copy on July 1, 2020.
 - K. Complainants, Respondent’s clients, subsequently replaced the sewer line completely.
7. Respondent acknowledges that this conduct, if proven by a preponderance of the evidence, could constitute grounds for the Commission to impose disciplinary sanctions against his license to practice as a Salesperson in the State of New Hampshire.
8. In lieu of a hearing on the merits, Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:28 and RSA 310-A.
- A. Respondent is assessed an **ADMINISTRATIVE FINE** in the amount of \$250.00. Respondent shall pay this fine in full within forty-five (45) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering a money order or bank check, made payable to “Treasurer, State of New Hampshire,” to the Commission’s office at 7 Eagle Square, Concord, New Hampshire, 03301. Please include the following note with the check or money

order: **Enclosed please find a check in the amount of \$250.00 for the administrative fine assessed by the Real Estate Commission (“Commission”) in resolution of In the Matter of Seth Barbiero as agreed to with the Commission.**

- B. Respondent shall complete the following approved post licensure courses: THREE (3) hours in ethics, TWO (2) hours in disclosures, and THREE (3) hours in agency and provide written notification to the New Hampshire Real Estate Commission of his successful completion of the courses. These hours shall be in addition to the regularly required hours for licensure, and shall be completed within one hundred eighty (180) days of the effective date of this *Settlement Agreement*. The courses may be completed online.
- C. Respondent shall bear all costs required in sections 8(A) and (B) of this *Settlement Agreement* and shall be responsible for ensuring all payments are made, but Respondent shall be permitted to share such costs with third parties.
- 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.
9. Respondent’s breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 331-A:26, and a separate and sufficient basis for further disciplinary action by the Commission.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Commission based upon the misconduct described above. However, the Commission may consider the fact that discipline was imposed by

this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Commission as a public document.
12. 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.
13. The Commission agrees that in return for Respondent executing this *Settlement Agreement*, the Commission will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that Respondent's action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of Respondent's choosing in connection with the decision to enter into this agreement.
16. 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, or by, the Commission surrounding its review of this *Settlement Agreement* have prejudiced Respondent's right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Commission.
17. Respondent is not under the influence of any drugs or alcohol at the time of signing this *Settlement Agreement*.

18. 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 rights 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, qualities 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.
19. 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.

[Signatures on next page.]

FOR RESPONDENT

Date: 8/17/2022


Seth Barbiero
Respondent

FOR THE COMMISSION/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 08/22/2022



(Signature)

Nikolas K. Frye, Esq., Presiding Officer
(Print or Type Name)
Authorized Representative of the
New Hampshire Real Estate Commission

/*Commission members, recused: