

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

In the Matter of:
Constance Neville
No.: Unlicensed
(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 real estate profession, the New Hampshire Real Estate Commission ("Commission") and Constance Neville ("Respondent"), do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Commission according to the following terms and conditions:

1. Pursuant to RSA 331-A:29 and RSA 331-A:34 of the New Hampshire Real Estate Practice Act ("The Act"), the Commission has jurisdiction to investigate and adjudicate allegations of unlawful practice by persons not licensed to practice real estate in New Hampshire. Pursuant to Commission Administrative Rule ("Rea") 204.06, the Commission may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. Respondent is a real estate broker licensed in the Commonwealth of Massachusetts. She has never been licensed in the State of New Hampshire.
3. On August 23, 2019, the Commission received a complaint alleging that Respondent had engaged in brokerage activities in the State of New Hampshire.

4. In response to this, the Commission conducted an investigation and obtained information from various sources pertaining to Respondent's activities related to two commercial properties offered for sale in the State of New Hampshire.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would seek to prove that Respondent engaged in professional misconduct, in violation of RSA 331-A:34 by the following facts:
 - A. Respondent is a Massachusetts real estate broker specializing in the sale of self-storage facilities. She has never been licensed in the State of New Hampshire.
 - B. Under RSA 331-A:22-a, I (b), An out-of-state broker may perform acts with respect to a commercial real estate transaction in New Hampshire provided that person, "Enters into a written agreement with a licensed New Hampshire broker that includes the terms of cooperation and any compensation to be paid by the licensed broker and a statement that the out-of-state broker and the out-of-state broker's agents will comply with the laws of this state".
 - C. On or about October 5, 2015, Respondent and a New Hampshire-licensed broker executed an Exclusive Right to Sell New Hampshire Commercial Investment Board of Realtors standard form with the owner of a self-storage facility located at 230 Rockingham Road in Derry, New Hampshire ("Derry Property"). Respondent advertised and promoted the sale of the property. The property was sold in 2016 and Respondent received her share of the sale commission on or about October 11, 2016.

- D. Respondent had failed to enter into a written agreement with her New Hampshire-licensed partner regarding her activities related to the Derry Property.
 - E. On or about February 22, 2019, Respondent and a New Hampshire-licensed broker entered into a representation agreement with the owner of a self-storage facility at 109 Winkley Pond Road in Barrington, New Hampshire ("Barrington Property"). Respondent advertised and promoted the sale of the property. A purchase and sale agreement was executed on or about August 5, 2019, but the transaction did not close.
 - F. Respondent had failed to enter into a written agreement with her New Hampshire-licensed partner regarding her activities related to the Barrington Property.
- 6. The Commission finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent failed to comply with the requirements of RSA 331-A:22-a. Failure to comply with RSA 331-A:22-a constitutes unlawful practice under RSA 331-A:34.
 - 7. Respondent acknowledges that this conduct constitutes grounds for the Commission to impose disciplinary sanctions.
 - 8. Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:34, III:
 - A. Respondent is assessed an administrative fine in the amount of four thousand dollars (\$4,000.00).

- B. Respondent shall pay this fine in full within thirty (30) 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 Board's office at 7 Eagle Square, Concord, New Hampshire.
9. 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 or in the complaint.
 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 or in the complaint. However, 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. Additionally, 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. The discipline imposed by this or any prior disciplinary order shall not be considered or in any way preclude Respondent from obtaining a New Hampshire license issued by the Commission if she is otherwise qualified for licensure under RSA 331-A:10.
 12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Commission as a public document.
 13. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.

14. Respondent understands that her 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 her choosing in connection with her decision to enter into this *Settlement 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 the Commission during its review of this *Settlement Agreement* have prejudiced her 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 she signs this *Settlement Agreement*.
18. Respondent certifies that she has read this document titled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her 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*, she 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.

FOR RESPONDENT

Date: 10/25/21

Constance M. Neville
Constance Neville
Respondent

Date: 10/26/21

[Signature]
Counsel for Respondent

FOR THE COMMISSION/*

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

Date: 11/22/21

[Signature]
(Signature)
JOSEPH G. SHOEMAKER
(Print or Type Name)
Authorized Representative of the
New Hampshire Real Estate Commission

/* _____, Commission members, recused.