

**STATE OF NEW HAMPSHIRE
REAL ESTATE COMMISSION**

In the Matter of:

NHREC

v.

Suzanne Dutkewych

Docket No. 2019-064

NOTICE OF DECISION

This is a Final Order issued by the New Hampshire Real Estate Commission (the "Commission") following a Hearing on the Merits in the matter of NHREC v. Suzanne Dutkewych (the "Respondent") at NHREC Docket Number 2019-064 held on October 20, 2020. The Hearing was noticed to the Respondent and the Respondent, representing herself, participated at the Hearing held via Zoom in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04.

BACKGROUND INFORMATION

The Respondent is a licensed New Hampshire real estate broker, so licensed since September 24, 2015, and is designated as a principal broker. Respondent's real estate license was set to expire September 24, 2019. On or about September 4, 2019 Respondent renewed her New Hampshire broker license online. As part of the renewal process Respondent attested that she completed all continuing education requirements prior to renewal. In her attestation to the continuing education credits she identified Core courses as "Core" and elective courses as "Elective" rather than identifying them by their corresponding course numbers. In response to the Respondent's filing a licensing coordinator for the Commission emailed the Respondent on or about September 5, 2019, requesting a copy of her bond and affidavits reflecting the three-hour Core course and twelve electives. Thereafter on or about September 18, 2019, the licensing coordinator again e-Mailed the Respondent seeking the course affidavits. On September 20, 2019, the Respondent replied to the coordinator's latter e-Mail, attaching a three-hour Core course affidavit bearing a completion date of September 19, 2019, rather than a completion date of or before the September 4, 2019 renewal date. Thereafter the Respondent e-Mailed the licensing coordinator on September 23, 2019, attaching affidavits reflecting the required twelve hours elective credits, bearing course completion dates of September 20, 2019, rather than completion dates of or before the September 4, 2019 renewal date.

On or about September 23, 2019, OPLC Investigator Michael Porter on behalf of the Commission, spoke with Respondent over the telephone. Respondent informed Investigator Porter she had purchased the courses reported in her license renewal, from Aldrich & Associates ("Aldrich"), in

August 2019 and took all the courses online but failed to time them out when she finished the course work. During Investigator Porter's investigation, in response to a subpoena issued to Aldrich, Aldrich provided documentation evidencing that the Respondent in fact ordered the Core course from Aldrich on September 19, 2019 and completed the Core course that same day, and likewise that the Respondent ordered a six-hour elective, *Every Day Ethics in Real Estate*, on September 13, 2019 at 2:51 PM and completed the six credits September 19, 2019 at 10:00 PM as well as a six credit elective, *Environmental Issues In Your Real Estate Practice*, on September 13, 2019 at 2:51 PM and completed this course on September 20, 2019 at 4:34 PM. The documents produced by Aldrich reflect that Respondent did not order or complete the courses until *after* she submitted her renewal and *after* Commission staff requested copies of all affidavits on September 5, 2019.

ALLEGATIONS CONTAINED IN THE COMPLAINT

The Complaint alleges the Respondent violated NH RSA 331-A: 26, I, IV, V, XXIX and Administrative Rule Rea 403.02, related to the foregoing. The Complaint was sent to and received by the Respondent by Certified Mail, and the Respondent responded to the Complaint. The Complaint alleges specifically that the Respondent violated the following statutes and administrative rule:

1. NH RSA 331-A: 26, I: In that the Respondent obtained or attempted to obtain a license by means of fraud, misrepresentation, or concealment.
2. NH RSA 331-A: 26, IV: In that the Respondent made, printed, published, distributed, or caused, authorized or knowingly permitted 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.
3. NH RSA 331-A: 26, V: In that the Respondent Knowingly committed, or was a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device, whereby any other person relied upon the word, representation or conduct of the licensee.
4. NH RSA 331-A: 26, XXIX: Unprofessional Conduct: In that the Respondent's conduct was unprofessional conduct defined in RSA 331-A:2, XV, defined as any action by a licensee or accredited individual, institution, or organization which is unlawful, dishonorable, unethical, or immoral.

5. Administrative Rule Rea 403.02 Continuing Education Documentation and Audits: In that the Respondent's documentation submitted after her license renewal does not support the continuing education hours claimed in the renewal.

HEARING ON THE MERITS

At the October 20, 2020, Commission Meeting, the Hearing on the Merits in the instant matter commenced at 11:00 AM, Commissioner Hyde was appointed as the Presiding Officer and the matter proceeded upon and agreed-to statements of facts. Attorney Porter provided the Commission an Offer of Proof based on the agree-to statement of facts after making a formal reading of the claims contained in the Complaint for the record. Commissioner Hyde confirmed that the facts Attorney Porter stated for the record were agreed to by both parties and that Ms. Dutkewych and Attorney Porter agreed to conduct the hearing by video.

Attorney Porter presented his case, followed by Ms. Dutkewych's response. Ms. Dutkewych stated that she understood her obligation to complete the classes prior to her license expiration date. Commissioner Hyde clarified for the record that, at the time of expiration, the classes were completed. Attorney Porter confirmed that this was accurate. Ms. Dutkewych did not refute the offer of proof presented by Attorney Porter. Commissioner Hyde closed the hearing at 11:25 a.m.

The Commission deliberated on the matter and by a vote of 3-0 decided that based on a preponderance of the evidence that the allegations contained in the Complaint are true. (Commissioner Hyde chose to abstain as Presiding Officer in all deliberations).


The Commission entered the sanctions phase and deliberated on the matter. By a vote of 3-0 the Commission imposed the following sanction:

Six (6) month suspension and a fine of \$250.00. The foregoing suspension to begin upon the date of notice to the Respondent.

BY ORDER OF THE COMMISSION

Date: _____

10/12/21



Joseph G. Shoemaker, Division Director
Authorized Representative of the NH
Real Estate Commission