

STATE OF NEW YORK  
DEPARTMENT OF STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Complaint of

**DEPARTMENT OF STATE  
DIVISION OF LICENSING SERVICES,**

Complainant,

**DECISION**

Complaint No.: C170194

-against-

**JOSHUA HARPER,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on September 26, 2018 at the office of the Department of State located at 123 William Street, New York, New York.

The respondent, having been advised of his right to be represented by an attorney, chose to represent himself.

The complainant was represented by Hearing Presenter Nadine Azarian, appearing by video conference from the office of the Department of State at 99 Washington Avenue, Albany, New York.

**COMPLAINT**

The complaint alleges that the respondent real estate salesperson failed to provide evidence that prior to submitting his license application he completed the required qualifying education, and did not cooperate with the complainant's investigation of his application.

**FINDINGS OF FACT**

1) Notice of Hearing calendared for June 13, 2018, together with a copy of the Complaint was served by certified and regular mail addressed to the respondent at his last known business address and posted on February 15, 2018 (State's Ex. 1). The matter was subsequently adjourned at the respondent's request.

2) On August 2, 2016 the respondent was granted a license as a real estate salesperson (State's Ex. 2 and 3).

3) On November 20, 2017 the complainant sent the respondent an email requesting that he provide proof of completion of 75 hours of qualifying education. The respondent did not reply. A follow up email resulted in a telephone call from the respondent in which he requested a hearing (State's Ex. 3).

4) According to the respondent's testimony, he took the real estate salesperson licensing examination without having passed the final exam administered by the school at which he took the required qualifying education courses because he was advised that it was acceptable to do so. However, having taken the qualifying education course twice, he has been unable to pass the final course exam, which he has taken four times.

### **OPINION AND CONCLUSIONS OF LAW**

I- The complaint alleges that the respondent failed to cooperate with the complainant's investigation. Inasmuch as he did respond to the complainant's second email that charge is dismissed.

II The complaint also alleges that the respondent violated Real Property Law (RPL) §441 (1) (c) by not supplying proof that he had completed 75 hours of qualifying education. That statute actually applies to real estate broker license applications by real estate salespersons, and provides a method to credit the salesperson's qualifying education to the fulfillment of the required real estate broker qualifying education requirement. It is RPL §441 (1-A) (d) which sets forth the requirement that an applicant for a license as a real estate salesperson provide proof of having successfully completed 75 hours of qualifying education.

The applicant testified that he took the qualifying education course twice, but has been unable to pass the course examination, which is a requirement of successful course completion. 19 NYCRR 176.9 (b). I find, therefore, that the respondent has not complied with RPL § 441 (1-A) (d), and, as the statute grants no discretion with regards to requirement that the final examination be completed, that his license must be revoked.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** Joshua Harper has violated Real Property Law §§441 (1A) (d), and accordingly, pursuant to Real Property Law §441-c, his license as a real estate salesperson, UID #10401292249, is revoked effective immediately. He is directed to send his license certificate, pocket card, and salesperson's identification to Norma Rosario, Department of State, Division of Licensing Services, One Commerce Plaza, 99 Washington Avenue, 5th Floor, Albany, New York 12231-0001.

/S/  
Roger Schneier  
Administrative Law Judge

Dated: September 26, 2018