

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.: C170192

-against-

**HARRINSON ESTRELLA,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on October 16, 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 together with a copy of the Complaint was served by certified and regular mail addressed to the respondent at his residence address (State's Ex. 1).

2) On July 21, 2016 the respondent was granted a license as a real estate salesperson in association with Bohemia Realty Group LLC. He ceased working as a real estate salesperson on or about November 30, 2016, and his license expired on July 20, 2018 (State's Ex. 2 and 3).

3) On November 13, 2017 the complainant sent the respondent an email requesting that he provide proof of completion of 75 hours of qualifying education. The respondent replied with a copy of the sales course certification from his application (State's Ex. 3). Although it was not evident on the emailed copy, the certification bore the raised seal of the Real Estate Education Center (REEC), the approved school at which the applicant had completed the 75 hour real estate salesperson qualifying course (Resp. Ex. A).

4) According to an email received from REEC by the complainant, the respondent completed the course but did not take the final examination. According to the respondent's sworn testimony, he did take and pass the examination.

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

I- The Department of State retains jurisdiction over a disciplinary matter and may impose disciplinary sanctions where (1) the alleged unlawful conduct occurred while the respondent was licensed and (2) the respondent was eligible to automatically renew the prior license at the time of the commencement of the action. See, *Division of Licensing Services v Akbar Yasrebi*, 12 DOS 99 (1999); *Division of Licensing Services v Thabit Uadah*, 287 DOS 98 (1998). Pursuant to Real Property Law (RPL) §441 (2) the respondent may renew his license by no later than July 20, 2020. Therefore, the tribunal retains jurisdiction in this matter.

II- The complaint 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 completed 75 hours of qualifying education. The applicant has provided such proof in the form of a sales course certification bearing the raised seal of the approved real estate school which he attended. Although in an email the school claimed that the respondent did not take the final examination, the respondent's unrefuted, credible sworn testimony was that he did, as evidenced by the sales course certification. I find, therefore, that the complainant has failed to establish by substantial evidence that the respondent violated RPL §441 (1-A) (d).

III- Pursuant to RPL §442-e (5) a real estate salesperson is obligated to cooperate with the Department of State's investigations of possible license violations. The evidence establishes that the respondent fully cooperated with the complainant's investigation.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** the complaint is dismissed.

/S/  
Roger Schneier  
Administrative Law Judge

Dated: October 16, 2018