

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,

-against-

**TAHA AHMED,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on October 31, 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 Jasmin Norman, Esq., who appeared by video conference from the office of the Department of State located 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 last known residence address appearing in the records of the Department of State and posted on September 10, 2018. The certified mail was delivered on September 14, 2018 (State's Ex. 1 and 4).

2) On March 24, 2016, pursuant to an application submitted on March 23, 2016, the respondent was granted a license as a real estate salesperson. His license expired on March 23, 2018 (State's Ex. 3 and 4).

3) On August 9, 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 to either that email or a follow up email, both of which were sent to the email address which he provided when he applied for his license (State's Ex. 3).

4) The respondent completed the real estate sales persons 75 hour course at the New York Real Estate Institute on March 21, 2016, prior to applying for his license (Resp. Ex. A).

5) The respondent testified that he did not reply to the complainant's emails because he thought that they referred to continuing education which he had not and would not take because he had stopped working as a real estate salesperson in July 2016.

### **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 March 23, 2020. Therefore, the tribunal retains jurisdiction in this matter.

I- 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 and, therefore, has not 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 respondent did not respond to the complainant's inquiries about his qualifying education. However, I find credible his testimony that he did not respond because he thought that the emails referred to continuing education which, since he had ceased working as a real estate salesperson and did not intend to renew his license, he had no obligation to take.

### **DETERMINATION**

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

/s/

Roger Schneier

Administrative Law Judge

Dated: November 1, 2018