

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.:C180034

-against-

CATHERINE BROOKE HOLLMANN,

Respondent.

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The above noted matter came on for a video hearing before the undersigned, John Kenny, on October 18, 2018 at the office of the Department of State (“Department”) located at 99 Washington Avenue, Albany, New York and 123 William Street, New York, New York.

The applicant having been advised of her right to be represented by counsel, chose to represent herself.

The Division of Licensing Services (“DLS”) was represented by David Mossberg, Esq.

COMPLAINT

The complaint alleges that the respondent real estate salesperson failed to provide proof that she successfully completed the required 75 hours of qualifying education prior to applying for her license, and that she failed to cooperate with the complainant’s investigation.

FINDINGS OF FACT

1) The respondent is registered as a real estate salesperson, UID #10401296791, with a license expiration date of November 30, 2018. The respondent is associated with the Nest Seekers LLC (State’s Ex. 1; State’s Ex. 2).

2) Notice of Hearing together with a copy of the Complaint was served by certified and regular mail to the business address of the respondent on March 23, 2018 (State’s Ex. 1). The respondent acknowledged receipt of the mailing.

3) On November 30, 2016 the respondent submitted an online application for a license as a real estate salesperson. The respondent certified that she had successfully completed 75 hours of approved pre-license education. On December 1, 2016, the respondent's license was issued based on the information in her application (State's Ex. 3).

4) On November 22, 2017 the DLS sent the respondent an email requesting that she 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 she provided when she applied for her license. The respondent testified that she used her personal email address as her registered email address with the DLS. She stated that she did not see the emails from the DLS due to the large volume of emails she receives at her email account (Transcript at 16-19; State's Ex. 3).

5) The respondent testified that she completed taking an approved course of 75 hours of qualifying education prior to submitting her application. She stated that she took both the State exam and school exam on the same day and that she passed the State exam. However, she testified that she did not pass the school exam and was not aware that she had failed the exam, until she received the complaint from the DLS in the mail (Transcript at 12-15).

6) On October 26, 2018 the respondent submitted a certificate of completion for the 75 hours of qualifying education that was issued by the New York Real Estate Institute on October 22, 2018 (Respondent's Ex. A).

OPINION

I- The complaint alleges that the respondent violated Real Property Law (RPL) §441(1)(c) by not supplying proof that she 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 respondent did not complete the qualifying education prior to obtaining her license. Therefore, she violated RPL §441(1-A) (d).

Pursuant to NYCRR §176.6, real estate students are required to take and pass a final examination after satisfying the real estate courses for licensure. The respondent testified that she thought she had taken and passed the school exam, however, she acknowledged that she did not pass the exam upon receiving the DLS complaint. It is apparent from her testimony that she did not have a firm and clear understanding of the examination requirements. The respondent is advised, before applying for a new salespersons license, to review all laws, rules and regulations that relate to the licensure of real estate salespersons.

In determining the penalty in this case, I have considered that the respondent's non-compliance appears to have been unintentional, and she took the school exam soon after learning that she had failed the initial exam. I have also considered that she was improperly licensed for a substantial amount of time.

II- Pursuant to RPL §442-e (5) a real estate salesperson is obligated to cooperate with the DLS investigations. The complaint alleges that the respondent did not respond to its emails about the qualifying education and, therefore, failed to cooperate with its investigation of possible license violations. The evidence establishes that the emails were sent to an email address which she provided at the time she applied for her license. The respondent failed to see the DLS emails on her personal email address due to the large volume of emails received at that address. The respondent is admonished that she is obligated to read and respond to emails, if required to respond, from the DLS regarding the status of her license.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Catherine Brooke Hollman has violated Real Property Law §§442-e (5), and accordingly, pursuant to Real Property Law §441-c, she is directed to pay a fine of \$200.00 to the Department of State on or before December 31, 2018. She is directed to send a certified check or money order for the fine payable to “Secretary of State,” to Norma Rosario, Department of State, Division of Licensing Services, One Commerce Plaza, 99 Washington Avenue, 5th Floor, Albany, New York, 12231-0001. In the alternative, the fine may be paid by credit card using the form available at <http://www.dos.ny.gov/forms/licensing/1450-f-1-a.pdf>.

/S/

John E. Kenny
Administrative Law Judge

Dated: November 28, 2018