

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

-against-

PATRICIA M. WILSON,

Respondent

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on August 27, 2014 at the office of the Department of State located at 123 William Street, New York, New York.

The respondent having been advised of her right to be represented by an attorney chose to represent herself.

The complainant was represented by Senior Attorney John E. Kenny, Esq.

COMPLAINT

The complaint alleges that the respondent negotiated a real estate transaction as a real estate salesperson without being properly licensed to do so.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served by certified mail delivered at the respondent's last known business address on July 21, 2014 (State's Ex. 1).

2) The respondent is duly licensed as a real estate salesperson for the term of August 8, 2013 to August 8, 2015 (State's Ex. 2). She was previously so licensed, most recently from October 7, 2010 to October 7, 2012 (State's Ex. 4).

3) On December 20, 2012, after the expiration and prior to the renewal of her license, the respondent negotiated the rental of an apartment to Donna Hylton and accepted from Ms. Hylton two payments of \$1,550.00, the first being a commission which she retained, and the second a security deposit

which she delivered to the landlord. When it appeared that the apartment would not be ready for occupancy on the agreed upon date, Ms. Hylton told the respondent that she wanted to cancel the transaction. The respondent refunded the commission but has been unable to obtain the return of the security payment which, as noted above, was paid to the landlord whom she has not been able to contact (State's Ex. 3).

OPINION AND CONCLUSIONS OF LAW

Pursuant to Real Property Law (RPL) §440-a it is unlawful to act as a real estate salesperson, as defined by RPL §440[3], without being so licensed. By negotiating a rental transaction on behalf of a client who paid her a commission, both after the expiration of her license, the respondent violated RPL §440-a. Her testimony that she was unaware of the expiration of her license does not excuse her conduct, as licensees are expected and required to keep track of the expiration of their licenses, although I find that it does establish that she acted in an incompetent, rather than an untrustworthy, manner.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Patricia M. Wilson has violated Real Property Law §440-a and has demonstrated incompetency, and accordingly, pursuant to Real Property Law §441-c, she shall pay a fine of \$500.00 to the Department of State on or before September 30, 2014, and should she fail to pay the fine her license as a real estate salesperson, UID #40WI0990071, shall be suspended for a period commencing on October 1, 2014 and terminating three months after the receipt by the Department of State of her license certificate, pocket card, and salesperson's identification. She is directed to send a certified check or money order for the fine payable to "Secretary of State," or her license certificate, pocket card, and salesperson's identification, by certified mail addressed 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 2, 2014