

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS
-----X

In the Matter of the Complaint of

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

Complainant,

DECISION

Complaint No.: 2014-0650

-against-

PETER PARAMONOV,

Respondent.

-----X

The above matter came on for hearing before the undersigned, J. Carolina Chavez, on March 23, 2016, at the office of the Department of State (“Department”) located at 123 William Street, New York, New York.

The respondent failed to appear. The Division of Licensing Services (“DLS”) was represented by Yeepan “Penny” Zhu, Esq.

ISSUES

Whether or not the respondent engaged in false and or misleading advertising for rental properties, and if he failed to cooperate with DLS’s investigation into his advertising practices, in violation of Real Property Law §441-c.

FINDINGS OF FACT

1) The respondent is a licensed real estate salesperson with the Department. At all times relevant in 2014, the respondent’s license was associated with a real estate company, either Harry & Jacob Realty, Inc. (from February 5, 2014 to April 7, 2014) or Rapid Riverdale (from April 23, 2014 to May 1, 2014). Since May of 2014, the respondent has been associated with Douglas Elliman Real Estate. His license expires on October 22, 2016 (State’s Ex. 2).

2) In 2014, Beth Kraus filed a complaint with DLS in connection with the respondent’s advertising on Craigslist. Ms. Kraus explained in her complaint that she had contacted the respondent in connection with a number of property advertisements he had listed in the “no fee/by owner” category on Craigslist. When Ms. Kraus contacted the respondent, he informed her he was a broker and that he had listed the apartments in the “no fee” category because “he does not want to pay the \$10 listing fee in the broker’s section” (State’s Ex. 4, p. 6). Ms. Kraus also forwarded screenshots of 11 different Craigslist ads posted sometime before June of 2014 by either “Peter P.” or “Peter Paramonov” all connected to the same phone number (State’s Ex. 5,

pp. 3-13). Ms. Kraus's complaint indicated that those ads were all postings made by the respondent (State's Ex. 4, p. 6).

3) DLS sent a copy of Ms. Kraus's complaint to the respondent along with a letter dated May 13, 2014, requesting the respondent's response to the allegations contained therein (State's Ex. 4, pp. 3-6). In an unsworn statement received by the Department on June 9, 2014, the respondent admitted to making multiple advertisements in the "no fee" section of Craigslist. He explained that at the time he did not have enough money to post advertisements in the broker's section of the website. He explained:

At the time my bank account was overdrawn and I had zero dollars in my pocket, and my financial situation was at its lowest point. I'm 22 years old and I just wanted to bring in one deal which would allow me to pay the listing fee to post in the proper section. I knew what I was doing is wrong, so [I] told everyone at first contact over the phone how much the fee is. All I wanted was to close a deal and market my listings properly. State's Ex. 4, p. 1.

The respondent also stated that he knew of many other brokers doing the same thing and even highlighted some of the unethical behaviors he had observed at his prior real estate company. He also explained that he told Ms. Kraus about the fee, apologized for misleading her, and argued that he believed that the "punishment" Ms. Kraus was seeking was disproportionate to the "inconvenience" he caused her (State's Ex. 4, p. 1).

4) Following receipt of the respondent's statement, DLS Investigator sent the respondent two letters attempting to schedule an interview with him in connection with Ms. Kraus's complaint (State's Ex. 5-6). The first letter, mailed on or about June 23, 2015, informed the respondent of a July 2, 2015 interview date. After the respondent failed to appear, a second letter was mailed out to the respondent referring to both a July 8, 2015 interview date, which the letter described as a date the respondent failed to appear, and an August 13, 2015 final proposed interview date. The certified mail return receipt for the second letter was returned to the Department bearing a receipt signature (State's Ex. 6).

5) Notice of Hearing and a copy of the Complaint were sent to the respondent via certified and regular mail on February 22, 2016. As of March 10, 2016, neither mailing had been returned as undeliverable by the Postal Service (State's Ex. 1).

OPINION AND CONCLUSIONS OF LAW

I – As the party who initiated this action, the complainant has the burden to prove, by substantial evidence, the truth of the charges. SAPA §306 (1). Substantial evidence is that which a reasonable mind could accept as supporting a conclusion or ultimate fact. *Division of Licensing Services v. Guiterrez*, 1101 DOS 08 (2008) (citing *Gray v. Adduci*, 73 NY2d 741, 536 NYS2d 40 (1988)). In determining whether substantial evidence has been presented by the complainant, "the question...is whether a conclusion or ultimate fact may be extracted reasonably—probatively and logically." *Division of Licensing Services v. Cirrincione*, 246 DOS 98 (1998) (citing *City of Utica Water Supply v. New York State Health Department*, 96 AD2d 710, 465 NYS2d 365, 66 (1983)).

II – Pursuant to RPL §441-c, the Department may sanction a licensee whenever the licensee engaged in dishonest or misleading advertising. Further, the Department may sanction a licensee when he proves untrustworthy or incompetent as a salesperson.

By advertising his properties in the “no fee/by owner” section of Craigslist, the respondent engaged in dishonest and misleading advertising, thus violating this provision. In failing to cooperate with the Department’s repeated efforts to interview the respondent in connection with his advertising practices, the respondent also proved untrustworthy.

III – In determining the appropriate sanction in this case, I have taken into consideration the amount of time that has transpired since the reported violations, as well as the fact that although the respondent failed to show up for his scheduled interviews, he provided the Department with a statement, wherein he took responsibility for his actions.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT, Peter Paramonov, UID # 10401243562, violated RPL §441-c. Therefore, he is ordered to pay a fine of \$121, \$11 for each of the 11 misleading advertisements he posted on Craigslist in early 2014, by July 15, 2016. The respondent 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, 99 Washington Avenue, Albany, New York 12201-2201.

/s/
J. Carolina Chavez
Administrative Law Judge

Dated: June 14, 2016