

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-

**WILLIAM A. BRENNER,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, at the office of the Department of State located at 41 State Street, Albany, New York on December 22, 1998, at which time there was on off the record conference, and on March 12, 1999.

The respondent, a suspended attorney, chose to represent himself.

The complainant was represented by Litigation Counsel Laurence Soronen, Esq.

**COMPLAINT**

The complaint alleges that the respondent, a licensed real estate broker and commissioned notary public, was suspended from the practice of law for various acts of misconduct, and that by reason thereof his license and commission should be revoked. However, on December 22, 1998 the respondent agreed to surrender his commission as a notary public for the duration of his suspension from the bar. Accordingly, only the issues involving the respondent's license as a real estate broker are considered herein.

**FINDINGS OF FACT**

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered to him on December 4, 1998 (State's Ex. 1).

2) The respondent is a duly licensed real estate broker d/b/a Tri Valley Real Estate pursuant to a license issued on March 31, 1997 and expiring on March 31, 1999. The license was issued by reason of his being an attorney at law in the State of New York (State's Ex. 1).

3) Effective December 16, 1998 the respondent was suspended from the practice of law for a period of six months and until further order of the Court (State's Ex. 1). In its decision the Supreme Court, Appellate Division, Third Judicial Department, found that the respondent: Neglected a personal injury lawsuit; improperly notarized an affidavit of a client at a time that the client was not before him; submitted the improperly notarized affidavit to a court; failed to provide a matrimonial client with the required statement of client's rights and responsibilities; neglected the matrimonial matter; engaged in a conflict of interest by filing an order to show cause against clients whom he was then representing in a lawsuit; and represented a client in an action in which it was obvious that he would be called as a witness.

#### MOTION FOR ADJOURNMENT

On March 12, 1999 the respondent sought an adjournment on the grounds that he had not understood that an actual hearing would be conducted on that day, and that he was not, therefore, prepared to proceed. He claimed that it was his understanding that an agreement had been reached in conference on December 22, 1998 that he would surrender his notary commission for the term of the suspension from the bar (which he has done), and would be allowed to retain his real estate broker's license, and that the matter would be on the calendar on March 12, 1999 only for the purpose of confirming approval of that agreement. However, it was the clear recollection of both the tribunal and Mr. Soronen that the purpose of adjourning the matter to March 12, 1999 was only to give the respondent an opportunity to find another broker to operate Tri Valley Real Estate so that its associated salespersons would not be put out of work, and that there was never any agreement that the respondent would be allowed to retain his license during the term of his suspension from the bar. Accordingly, the motion for an adjournment was denied, with the respondent was granted leave to submit written argument on the law, by mail or fax, by no later than the close of business on March 19, 1999.

On March 19, 1999 at 4:07 p.m. the respondent telephoned the tribunal and left a message requesting an additional week in which to make his submission. At 4:36 p.m. the same day he faxed a letter to the tribunal from his tax preparation business which contained some minimal argument on the law, none of which was persuasive or on point, and in which he requested additional time because he had allegedly been ill for several days. He claimed that he needed time to research the law and to photocopy exhibits, but offered no explanation as to why such research and photocopying

was not done prior to December 22, 1998, the originally scheduled hearing date. In view of the respondent's extensive history of neglect and delay, as demonstrated both by his actions in this proceeding and by the findings in the Memorandum and Order of the Appellate Division underlying his current suspension from the bar and in prior decisions of the same Court underlying the respondent's previous censure, *In Re Brenner*, 159 AD2d 931, 553 NYS2d 874 (1990), and three month suspension, *Matter of Brenner*, 191 AD2d 800, 594 NYS2d 829 (1993), and of his misrepresentations as to what had been agreed to on December 22, 1998, I do not find his claim that he had insufficient time to prepare his submission to be credible. Rather, it appears that he is seeking to delay a decision by the tribunal for as long as is possible. Accordingly, his request for additional time is hereby denied.

#### OPINION

The respondent was granted his license as a real estate broker by virtue of his being an attorney. Accordingly, he was not required to meet any of the educational, experiential, or character standards imposed by the governing statutes. Real Property Law (RPL) §442-f; Executive Law §130. See *Huber v Shaffer*, 160 Misc2d 923, 611 NYS2d 998 (1993). He has been suspended from acting as an attorney and, therefore, the basis on which his license was issued no longer exists. Thus, he is not entitled to hold an active license as a real estate broker.

#### CONCLUSIONS OF LAW

The respondent's license as a real estate broker should be suspended inasmuch as he is not actively licensed as an attorney and, therefore, the basis upon which he was granted the license is no longer valid and he no longer qualifies to hold that license.

#### DETERMINATION

**WHEREFORE, IT IS HEREBY DETERMINED THAT** the license as a real estate broker of William A. Brenner is suspended, effective immediately, until such time as he shall submit proof satisfactory to the Department of State that he has been reinstated to the practice of law. He is directed to send his license certificate and pocket card to Usha Barat, Customer Service Unit, Department of State, Division of Licensing Services, 84 Holland Avenue, Albany, NY 12208.

Roger Schneier  
Administrative Law Judge

Dated: March 22, 1999