

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-

KHUBLALL DHANRAJ,

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on March 30, 1999 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent did not appear.

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

COMPLAINT

The complaint alleges that the respondent: Conducted a regulated real estate transaction while not licensed to do so; engaged in a pattern of unlicensed activity; operated an unlicensed real estate broker office; forged and displayed a fraudulent real estate broker license; was convicted of Grand Larceny in conducting real estate transactions.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered on March 9, 1999 at his last known residence address (State's Ex. 1). Additional copies of the notice of hearing and complaint were mailed to the respondent by both certified and regular first class mail addressed to him at his last known business address, the last address at which he was licensed as a real estate salesperson, and his residence address (State's Ex. 2). None of those mailings, and none of the certified mail receipts for those mailings, were returned by the Postal Service.

2) At all times hereinafter mentioned the respondent was licensed as a real estate salesperson in association with Trademark Realty Corp. (hereinafter "Trademark"), 2016 McGraw Avenue, Bronx, New York 10462. That license has an expiration date of December 10, 1999, but was cancelled on March 29, 1998 upon the submission by the employing broker of a termination of association form (State's Ex. 1).

3) On October 30, 1997 the respondent plead guilty to a charge of Grand Larceny in the 4th degree, Penal Law §155.30, a class E felony, and was sentenced to five years probation (State's Ex. 3).

4) As established by admissions which he made to License Investigator William Nolan, while associated with Trademark the respondent engaged in real estate brokerage transactions without the knowledge of his supervising broker and defrauded several clients out of deposit money (State's Ex. 7).

5) After his termination by Trademark the respondent opened and operated an unlicensed real estate brokerage business under the name "Landmark Real Estate Inc." at 1270 Pugsley Avenue, Bronx, New York 10462 (State's Ex. 5), and posted on the wall of his office a forged real estate broker's license (State's Ex. 4).

OPINION AND CONCLUSIONS OF LAW

I- The holding of an ex parte quasi-judicial administrative hearing was permissible, inasmuch as there is evidence that notice of the place, time and purpose of the hearing was properly served. Real Property Law §441-e[2]; *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- RPL §440-a provides that a license as a real estate salesperson may not be held by a person who has been convicted of a felony and who has not subsequently received an Executive Pardon, a Certificate of Relief From Disabilities, or a Certificate of Good Conduct. *Matter of the Application of Story*, 140 DOS 93. The statute grants no discretion on the issue, *Matter of the Application of Matematico*, 10 DOS 94, and, pursuant to Correction Law §751, the bar to licensure is not subject to the provisions of Correction Law Article 23-A regarding the licensure of persons previously convicted of criminal offenses.

The respondent was convicted of a felony. He has not presented any evidence that he has been granted an Executive Pardon, a Certificate of Relief From Disabilities, or a Certificate of Good Conduct. Accordingly, he is barred from holding a license as a real estate salesperson.

III- The respondent has admitted to engaging in real estate brokerage transactions without the knowledge of his supervising broker, and to defrauding clients out of deposit money. In so doing he demonstrated untrustworthiness and engaged in fraudulent practices.

IV- Pursuant to Real Property Law (RPL) §440-a, no person may hold him or herself out, or act temporarily or otherwise as, a real estate broker without first procuring a license therefore. The respondent, by operating Landmark Real Estate Inc. as a real estate broker, has clearly violated that statute. His use of a forged license, an act of untrustworthiness, is an aggravating factor.

V- The complainant presented no evidence that would establish that the respondent conducted a regulated real estate transaction while not licensed to do so. Accordingly, that charge must be, and is, dismissed.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Khublall Dhanraj has been convicted of a felony, has violated Real Property Law §440-a, has engaged in fraudulent practices, and has demonstrated untrustworthiness, and accordingly, pursuant to Real Property Law §441-c, his license as a real estate salesperson is revoked, effective immediately. 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: April 8, 1999