

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
JOHN O. PASTORE COMPLEX  
1511 PONTIAC AVENUE, BLDG. 68-1  
CRANSTON, RHODE ISLAND 02920

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|------------------|---|-------------------|
| IN THE MATTER OF | : |                   |
|                  | : |                   |
| ALBERT J. DARCY, | : | DBR No. 07-L-0012 |
|                  | : |                   |
| RESPONDENT.      | : |                   |

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**CONSENT ORDER**

It is hereby agreed between the Department of Business Regulation (“Department”) and Albert J. Darcy (“Respondent”) as follows:

1. Respondent is licensed as a salesperson to engage in the business of real estate.
2. Upon information and belief, Respondent is the sole shareholder of A.J. Budget, Inc., which also does business under the fictitious name, Helm Properties.
3. On or about October 16, 2006, the Department received a complaint from Thomas and Georgia Leonard against Respondent and Helm Properties, alleging that Respondent failed to give them the September 2006 rent for the property managed by Respondent on the Leonards’ behalf.
4. On or about December 1, 2006, the Department received a complaint from Bill Nevitt against Respondent and Helm Properties, alleging that Respondent failed to give him the October 2006 rent for the property managed by Respondent on Nevitt’s behalf.
5. On December 11, 2006, the Department received a letter from Marsha Welch in which she states that she received the September 2006 rent for the Leonards’ property and deposited the rent into the agency’s account on September 14, 2006.

6. Marsha Welch also states in the letter that she had been the principal broker at Helm Properties until she disaffiliated herself from the agency on September 19, 2006.

7. The Department never received written notification of the name of the principal broker who replaced Marsha Welch at Helm Properties.

8. On November 14, 2006, the Department provided notice to Respondent of the complaints filed against him by regular and certified mail and requested a response within twenty (20) days.

9. Upon failure to respond within twenty (20) days, the Department sent the November 14, 2006 notice to Respondent via facsimile (401-461-3660).

10. On December 29, 2006, the Postal Service returned the Department's November 14, 2006 certified notice because it went unclaimed.

11. R.I. Gen. Laws § 5-20.5-6(b) provides that the Department, after a due and proper hearing, may suspend, revoke, or refuse to renew any license upon proof that the holder of the license has violated this statute or any rule or regulation issued pursuant to this statute.

12. R.I. Gen. Laws § 5-20.5-14(a)(15) authorizes the Department to suspend or revoke a license if a licensee is found to have violated any rule or regulation promulgated by the commission or the department in the interest of the public and consistent with the provisions of this chapter.

13. R.I. Gen. Laws § 5-20.5-14(a)(17) authorizes the Department to suspend or revoke a license where a licensee, in performing or attempting to perform any of the acts mentioned in this chapter, is found guilty of failing, within a reasonable time, to provide information requested by the Department as the result of a formal or informal complaint that would indicate a violation of the laws and regulations pertaining to real estate licensure.

14. R.I. Gen. Laws § 5-20.5-14(a)(20) authorizes the Department to suspend or revoke a license where a licensee, in performing or attempting to perform any of the acts requiring licensure, is found guilty of any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.

15. Rule 15(E) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that every Agency be under the direct supervision of a Principal Broker.

16. Rule 15(F) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that the name of the licensee designated as the person responsible for the supervision of an office shall be on file with the Real Estate Section of the Department.

17. Rule 2(B) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that every real estate transaction in which an agency participates as a broker shall be under the supervision of the Principal Broker.

18. Rule 20 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that all Licensees are subject to and shall strictly comply with the laws of agency and the principals governing fiduciary relationships.

19. Based on the above, the Department believes it has sufficient cause to suspend or revoke Respondent's license pursuant to R.I. Gen. Laws § 5-20.5-14(a)(15), (17), and (20), and Rules 2, 15, and 20, of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

20. Following a status conference held on June 25, 2007, Respondent agreed to cease and desist from all activities require licensure except for actions necessary to resolve the two (2) complaint filed against him in this matter.

21. Respondent returned the monies owed to the Leonards and Nevitt on or about December 17, 2007.

22. Respondent has affiliated himself with a principal broker.

23. Respondent's company, A.J. Budget, Inc., is no longer engaged in real estate activities requiring licensure.

24. In an effort to resolve the above-referenced violations and allow Respondent to maintain his license in good-standing, Respondent agrees to the following:

A. Respondent shall pay an administrative penalty in the amount of \$250.00, payable to the Rhode Island General Treasurer, for failure to respond timely to the Department as the result of a formal or informal complaint.

B. Respondent shall cease and desist from engaging in any real estate activity requiring licensure under the entity A.J. Budget, Inc., d/b/a Helm Properties, unless under a principal broker approved as such by the Department.

C. Respondent voluntarily waives his right to the hearing process, voluntarily waives his right to appeal to Superior Court, and agrees to take all necessary action as delineated in this Consent Order in order to maintain his license in good-standing.

25. If Respondent does not comply with the terms of this Consent Order, the Department reserves its right to use such noncompliance as a basis to revoke Respondent's license following an administrative hearing pursuant to R.I. Gen. Laws § 5-20.5-14.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

THE DEPARTMENT AND RESPONDENT HEREBY CONSENT AND AGREE TO THE FOREGOING AS TO FORM AND SUBSTANCE:

Department of Business Regulation  
By its Legal Counsel:

Albert Darcy, Respondent  
By:



Michael P. Jolin  
Department of Business Regulation

Date: 1/12/09



Date: \_\_\_\_\_

Recommended by:



Neena Sinha Savage, Esq.  
Hearing Officer

Date: 1/12/09

**ORDER**

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT  
 REJECT  
 MODIFY

  
\_\_\_\_\_  
A. Michael Marques  
Director

Date: 01-12-2009

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING HER RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, REFERRAL MAY BE MADE TO THE RHODE ISLAND ATTORNEY GENERAL FOR FURTHER PROSECUTION.