

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

IN THE MATTER OF

SANFORD BILSKY

RESPONDENTS.

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DBR No. 09-L-0051

CONSENT ORDER

It is hereby agreed between the Department of Business Regulation (“Department”) and Sanford Bilsky (“Respondent”) as follows:

1. Respondent is licensed by the Department as a Broker to engage in the business of real estate, holding License No. B8715. At all times relevant hereto, Respondent was the principal broker for Real Estate Equities, Inc. (“the agency”).
2. On, On July 10, 2008, the Department received a complaint from Martin Fox (“Complainant”) against Respondent alleging violations of the R.I. Gen. Laws §§ 5-20.5 *et seq.* and of Commercial Licensing Regulation 11 – *Real Estate Brokers and Salespersons*. The Complaint arose from Respondent’s acts relative to the provision of real estate services and a leasing transaction for property located at 265 Post Road, Westerly, Rhode Island (“subject property”).
3. The complaint alleges, and the Department has reason to believe, that Respondent has violated the provisions of R.I. Gen. Laws §§ 5-20.5-10(d), 5-20.5-14(a)(7) and 5-20.5-14(a)(20) and Rule 20(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and*

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Salespersons in connection with said transaction, as set forth herein. Accordingly, the Department has sufficient cause to revoke Respondent's license pursuant to R.I. Gen. Laws § 5-20.5-14(a).

4. The complaint alleges that Respondent had a present and ongoing real estate business relationship with Mark Adiletta, the owner/lessor of the real estate in which the Complainant operated his restaurant business ("subject property"). Complainant alleges, and Respondent admits, that he had acted as a Broker for Adiletta for the past several years, and had been involved in consultations with Adiletta regarding the fair market rental value of the subject property in February 2008 and subsequently negotiating a Notice of Intent to Lease for same.

5. On March 18, 2008 the respondent provided a written valuation of the subject property to Adiletta, stating three times in the document that it was an "appraisal."

6. On March 25, 2008, the Complainant and his wife had a consultation with the Respondent regarding his knowledge about the availability and market value of rental property in and around the Town of Westerly Rhode Island for the purpose of operating a restaurant business. The complaint alleges that they divulged business information to the licensee, and that they requested that he keep the information strictly confidential.

7. The Licensee asserts that no business information was divulged at the meeting with the Complainant, and that only the current status of the rental market and available properties were discussed.

8. Complainant avers that he would not have divulged his future business plans with Respondent had he known that Respondent had an existing relationship with Complainant's landlord

9. At no time during the March 25th consultation, or at any time prior or to subsequent thereto, did the Respondent disclose to the Complainant that he had an ongoing business relationship with Adiletta or that he had been retained for the purpose of making an evaluation of the subject property which the Complainant was currently leasing.

10. In his defense, the Licensee has asserted that he did not feel an obligation to disclose his business relationship with Adiletta, as the Complainant did not engage his services as a Broker at that meeting, or at anytime thereafter.

11. Respondent did not provide Complainant with a Mandatory Relationship Disclosure Form during the March 25, 2008 meeting or any time prior thereto.

12. The Respondent was retained by Adiletta to act as an expert witness for the purpose of giving testimony regarding the rental value for the subject property in April, 2008.

13. During the month of April, the Respondent, on Adiletta's behalf, engaged in negotiations for a new lease agreement at the subject property. Those negotiations resulted in the Respondent's submission of a Letter of Intent on May 5, 2008 for a third party to lease the subject property.

14. Respondent admits that he relocated his residence from the State of Rhode Island to the State of Florida in October of 2008, and relocated his brokerage within the state.

15. After moving from the state, the Respondent failed to notify the Department of his change of residence and brokerage and to file the required Power of Attorney Form for Non-Resident Brokers as required by the provisions of R.I. Gen. Laws § 5-20.5-10(d).

16. The Licensee has acknowledged his wrongful failure to comply with § 5-20.5-10(d) as outlined in paragraph 15, but cites several mitigating factors such as health problems and a flood in his home as explanations therefore.

17. R.I. Gen. Laws § 5-20.5-14(b) authorizes the Department of Business Regulation to levy an administrative penalty not exceeding one thousand dollars (\$1,000) for any violation under this section or the rules and regulations of the Department.

18. Rule 20(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*,¹ which provides, in relevant part:

All Licensees are subject to and shall strictly comply with the laws of agency and the principals governing fiduciary relationships. Thus, in accepting employment as an agent, the Licensee pledges him/herself to protect and promote, as he/she would his own, the interests of the principal he/she has undertaken to represent.

19. Rule 20(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*,² further provides that all licensees have a binding obligation of dealing fairly with all parties to a real estate transaction.

20. R.I. Gen. Laws § 5-20.5-10(d) provides that no license shall be issued to a nonresident until he or she has filed with the director a power of attorney constituting and appointing the director and his or her successor his or her true and lawful attorney, upon whom all lawful processes in any action or legal proceeding against him or her may be served, and in the power of attorney agrees that any lawful process against him or her which may be served upon his or her attorney is of the same force and validity as if served on the nonresident, and that the authority continues irrevocably in force as long as any liability of the nonresident remains outstanding in the state.

21. 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

¹ R.I. Gen. Laws § 5-20.5-12(a)(2) provides that the Department shall establish any reasonable rules and regulations that are appropriate to the public interest. R.I. Gen. Laws § 5-20.5-14(a)(15) authorizes the Department to suspend or revoke a license where a licensee violates any rule or regulation promulgated by the Department.

² *Id.*

mentioned in this chapter, is found guilty of any conduct in a real estate transaction, which demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.

22. R. I Gen. Laws § 5-20.5-14(a)(7) 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 acting for more than one party in a transaction without the knowledge and consent, in writing, of all parties for whom he or she acts.

23. Based on the foregoing, the Department has reason to believe that Respondent has violated R. I. Gen. Laws §§ 5-20.5-10(d), 5-20.5-14(a)(7) and 5-20.5-14(a)(20), and Rule 20(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

24. The Department has sufficient cause to suspend or revoke Respondent's license pursuant to R.I. Gen. Laws § 5-20.5-14(a) and assess an administrative penalty pursuant to R.I. Gen. Laws § 5-20.5-14(b).

25. In making its offer to the Respondent to settle this complaint without further administrative action, the Department has considered the explanatory statements of the Respondent, in addition to the written statements of Donald Packer, Esq. and Mark Adiletta in support of the Respondent's actions in the circumstances surrounding this complaint.

26. Mr. Adiletta has indicated in his statement that the Respondent "at no time represented himself as a licensed appraiser" regarding the letter of rental valuation for the subject property referenced in paragraph 5 herein.

27. Mr. Adiletta further characterized the Licensee as a man of "honesty and integrity" based on his personal observation after years of professional experience with him.

28. Mr. Packer represented one of the parties in the arbitration referenced herein, and possesses firsthand knowledge of the Respondent's actions in this transaction, which he detailed in his written statement to the Department.

29. The Department has further considered that the Licensee has maintained his brokers' license in good standing for over thirty five years.

30. Based on all of the evidence presented by the Licensee, and the supporting witness statements submitted by third parties, the Department believes that the violations committed by the Licensee were not based on any deliberate intention to defraud, or deal unfairly with any party.

31. 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. To pay an administrative penalty in the amount of \$500.00, payable to the Rhode Island General Treasurer, for his failure to notify the Department of his change of residence and brokerage addresses and to file the required Power of Attorney Form for Non-Resident Brokers as required by the provisions of R.I. Gen. Laws § 5-20.5-10(d).
- b. To pay an administrative penalty in the amount of \$500.00, payable to the Rhode Island General Treasurer, for failing to disclose his ongoing business relationship with Mark Adiletta and ACP to the Complainant as required under Rule 20(A) *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, which provides that all licensees have a binding obligation of dealing fairly with all parties to a real estate transaction.

32. The Respondent voluntarily waives his right to a continuation of the hearing process, voluntarily waives his right to appeal to Superior Court, and agrees to take all necessary action as delineated in this Consent Agreement in order to maintain his license in good-standing.

33. 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.

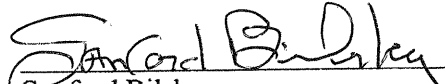
THE DEPARTMENT OF BUSINESS REGULATION AND RESPONDENT HEREBY
CONSENT AND AGREE TO THE FOREGOING AS TO FORM AND SUBSTANCE:

Department of Business Regulation
By its Legal Counsel:


Ellen R. Balasco, Esq.
Deputy Chief of Legal Services


Date: 9/10/09

Respondent:


Sanford Bilsky

Date: Sept 9, 2009

Recommended by:



Catherine R. Warren
Hearing Officer

Date: 9/11/09

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: Sept 14, 2009

Entered as an Administrative Order No. 09- 215 this 14th day of Sept., 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.

CERTIFICATION

I hereby certify on this 15th day of Sept, 2009, that a copy of the within Order was sent by first class mail, postage prepaid and by electronic mail to:

Mr. Sanford Bilsky, c/o Spinnaker Group, Inc., 35 South County Commons Way, Wakefield, Rhode Island; sandy@riequities.com

and by electronic mail to the following personnel of the Department of Business Regulation:

Ellen R. Balasco, Esq., Deputy Chief of Legal Services

Maria D'Alessandro, Esq. Associate Director

William J. DeLuca, Acting Administrator – Real Estate

A Brooke Ellison