

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

IN THE MATTER OF:

BERNARD GUTTIN,

RESPONDENT.

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DBR No.: 09-L-0092

CONSENT ORDER

1. Respondent holds a real estate salesperson's license issued by the Department pursuant to R.I. Gen. Laws § 5-20.5-1, *et seq.*

2. On October 30, 2008, the Department received a complaint against the Respondent relative to his participation in several real estate transactions concerning property located at 94 Post Road, Warwick, Rhode Island, ("Complaint No. 08-035"). A second complaint against the Respondent ("Complaint No.08-043") was received by the Department on December 15, 2008 which arose from the same real estate transactions involving 94 Post Road, Warwick, Rhode Island. Upon investigation of the two complaints, it was determined that they contained allegations that the Respondent had committed violations of the Rhode Island General Laws and the Department's regulations in conducting said transactions, as set forth and enumerated in the following paragraphs:

- a. R.I. Gen. Laws § 5-20.5-14(a)(1), which authorizes the Department to suspend or revoke a license where a licensee makes any substantial misrepresentation in a real estate transaction.
- b. R.I. Gen. Laws § 5-20.5-14(a)(7), which authorizes the Department to suspend or revoke a license where a licensee acts for more than one party

in a transaction without the knowledge and consent, in writing, of all parties for whom he or she acts.

- c. R.I. Gen. Laws § 5-20.5-14(a)(15), which authorizes the Department to suspend or revoke a license where a licensee violates any rule or regulation promulgated by the Department.
- d. R.I. Gen. Laws § 5-20.5-14(a)(20), which authorizes the Department to suspend or revoke a license where a licensee engaged in any conduct in a real estate transaction that demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.
- e. R.I. Gen. Laws § 5-20.5-14(a)(21), which authorizes the Department to suspend or revoke a license where a licensee fails to have all listing agreements in writing, properly identifying the property and containing all the terms and conditions of sale and the signatures of all parties concerned.
- f. R.I. Gen. Laws § 5-20.5-14(a)(34), which authorizes the Department to suspend or revoke a license where a licensee fails to report all written offers to the owner prior to the signing of a purchase and sale agreement by the owner.
- g. R.I. Gen. Laws § 5-20.5-14(a)(35), which authorizes the Department to suspend or revoke a license where a licensee fails to provide buyers and sellers of real property with disclosure regarding real estate agency relationships as specified in Chapter 20.6 of this title.
- h. Rule 20(A) of *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.
- i. Rule 20(C) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, which requires that all licensees diligently transmit every written offer on any specific real property or interest therein to the owner or his/her authorized representative.

2. Upon receipt of the complaints, the Department initiated an investigation of the circumstances surrounding the real estate transactions in issue, and the alleged acts of the Respondent, and thereupon found that it had sufficient cause to initiate administrative proceedings to sanction Respondent's license via suspension or revocation pursuant to R.I. Gen. Laws § 5-20.5-15(a).

3. Based on the results of its investigation, the Department has reason to believe that, had a hearing in this matter been held, the Department would have demonstrated that Respondent has violated Rhode Island General Laws and the Department of Business Regulation Commercial Licensing Regulation 11, *Real Estate Brokers and Salespersons*, as set forth herein.

4. The Respondent does not admit to committing the violations alleged herein, but has been afforded the opportunity to review with counsel the case to be presented by the Department if a hearing of this matter were to be held, and is of the opinion that it would be contrary to his own best interest to proceed with the administrative hearing process at this time.

5. No specific findings of fact have been made by this Department or the Hearing Officer assigned to this matter that the Respondent has violated any law or regulation as set forth herein.

WHEREFORE, it has been determined by the Department that it is in the public interest to resolve the above-referenced matters without the continuation of the administrative hearing process. In making its determination, the Department has considered the following mitigating factors and their effect on the appropriateness of the penalties assessed against the Respondent for the violations alleged.

I. The Respondent has been licensed by the Department as a real estate salesperson for a period of eight years, and has no prior complaints involving similar offenses, and has no history of disciplinary actions by the Department prior to the filing of this complaint;

II. The Respondent has shown an understanding and acknowledgement of the violations, and has voluntarily agreed to surrender his real estate license.

III. The Respondent has made a good faith attempt to cooperate with the Department's inquiries and demands during the investigation of these complaints.


IN CONSIDERATION OF THE FOREGOING, the Respondent hereby agrees the his real estate salesperson license number S29666 is permanently revoked, effective immediately upon the execution and entry of this Consent Order by the Director.

The parties agree that this Consent Order and its terms represent the final determination of this matter. By agreeing to resolve this matter through the execution of this Consent Order, Respondent voluntarily waives his right to the hearing process, and voluntarily waives his right to pursue an appeal to the Rhode Island Superior Court.

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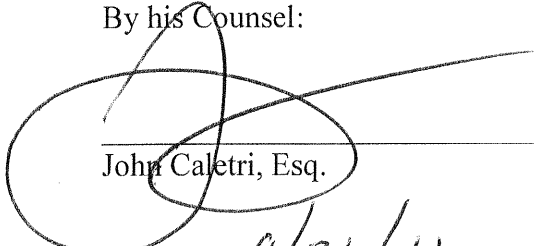
THE DEPARTMENT AND RESPONDENT HEREBY CONSENT AND AGREE TO THE FOREGOING AS TO FORM AND SUBSTANCE:


Department of Business Regulation
By its Legal Counsel:



Ellen R. Balasco, Esq.
Deputy Chief of Legal Services
Date: April 28, 2011


Bernard Guttin, Respondent
By his Counsel:



John Caletri, Esq.
Date: 9/26/11


Bernard Guttin, Respondent
Date: 4/26/11

Recommended by:



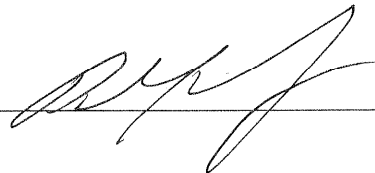
Catherine R. Warren, Esq.
Hearing Officer
Date: 5/3/11

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

Date: 4 May 2011



CERTIFICATION

I hereby certify on this 5th day of May, 2011, that a copy of the within Consent

Order was sent by first class mail, postage prepaid, to:

Bernard Guttin 16 High Gate Road Cranston, Rhode Island 02920	John A. Caletti, Esq. 49 Weybosset Street, 2 nd Floor Providence, Rhode Island 02903
Joseph R. Daigle, Esq. 3288 Post Road Warwick, Rhode Island 02886	Timothy Silvia 367 Potters Avenue Warwick, Rhode Island 02886

and by electronic mail to the following personnel of the Department of Business Regulation,
1511 Pontiac Ave, Cranston, Rhode Island 02920:

Maria D'Alessandro, Esq., Deputy Director

William J. DeLuca, Real Estate Administrator

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

