

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

IN THE MATTER OF:

ETHELYN L. TATREAU,

RESPONDENT.

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DBR No.: 08-L-0277

**EMERGENCY ORDER SUSPENDING LICENSE,
NOTICE OF INTENT TO REVOKE LICENSE, IMPOSE ADMINISTRATIVE
PENALTY, AND PROVIDE NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to R.I. Gen. Laws §§ 5-20.5-1, *et seq.*, and 42-35-14(c), the Director (“Director”) of the Department of Business Regulation (“Department”) hereby issues this Emergency Order to Cease and Desist Accepting New Business, Notice of Intent to Revoke License, Impose Administrative Penalty, and Provide Notice of Opportunity for Hearing (“Emergency Order”) to Ethelyn L. Tatreau (“Respondent”).

A. STATUTORY/REGULATORY JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen Laws § 5-20.5-1, *et seq.*, R.I. Gen Laws § 42-14-1, *et seq.*, R.I. Gen Laws § 42-35-1, *et seq.*, and *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

B. FACTS

1. Respondent is licensed as a real estate broker, License No. B15197, issued May 1, 2006, pursuant to the terms and provisions of R.I. Gen. Laws § 5-20.5-1, *et seq.*, and *Commercial Licensing Regulation 11– Real Estate Brokers and Salespersons*.

2. Respondent represents the seller (“Seller No. 1”) of Week 34 of a timeshare property located at Newport Bay Club, Newport, Rhode Island 02840 (“Timeshare No. 1”).

3. On November 17, 2008, the Department received a complaint from Seller No. 1 that Respondent received funds for the sale of Timeshare No. 1 on or about July 1, 2008 on behalf of Seller No. 1 but has yet to remit the proceeds to him.

4. Respondent represents the sellers (“Sellers No. 2”) of Week 26 of a timeshare property located at Newport Bay Club, Newport, Rhode Island 02840 (“Timeshare No. 2”).

5. On November 17, 2008, the Department received a complaint from Sellers No. 2 that Respondent received funds in the amount of \$8,500 for the sale of Timeshare No. 2 on behalf of Sellers No. 2 pursuant to a Timeshare Purchase Contract dated March 11, 2008 but has yet to remit the proceeds to them.

6. Sellers No. 2 also allege they have yet to receive a rental fee for Timeshare No. 2 in the amount of \$1,800 that Respondent received for the week of June 27-July 4, 2008.

7. On November 17, 2008, the Department received a complaint from the buyer of Weeks 26 and 34 of the Timeshare (“Buyer”) in which he alleges that he has paid monies to Respondent for Weeks 26 and 34 of the Timeshare but has yet to receive the deeds for these properties.

8. On November 19, 2008, the Department received information that the closing attorney for these transactions has been directed by Respondent not to record the deeds to the timeshares at issue.

C. RELEVANT LAW

1. R.I. Gen. Laws § 5-20.5-14(a)(5) authorizes the Department to suspend or revoke a license where a licensee fails to deposit money or other customers' funds in an escrow account upon the execution of a purchase and sales agreement.

2. R.I. Gen. Laws § 5-20.5-14(a)(20) authorizes the Department to suspend or revoke a license where a licensee demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.

3. Rule 6 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* prohibits the commingling of funds by failing to segregate promptly any monies received that are held for the benefit of others.

4. 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 commission or the Department.

5. R.I. Gen. Laws § 5-20.5-26(c) provides that it is unlawful for any licensee to whom any money or other property is entrusted as escrow funds, who intentionally appropriates to the licensee's own use that money or property, or transfers the funds from an escrow account to a company or personal account prior to a closing, is guilty of the criminal offense of unlawful appropriation pursuant to R.I. Gen. Laws § 11-41-11.1.

5. R.I. Gen. Laws § 42-35-14(c) provides that if the Department finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of license may be ordered pending proceedings for revocation or other action.

D. BASIS FOR EMERGENCY ACTION

Based on the foregoing, the Director has reason to believe that Respondent violated R.I. Gen. Laws § 5-20.5-14(a)(5), (15) and (20); § 5-20.5-26(c); and Rule 6 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*. The Director finds that Respondent’s alleged conduct described in Section B, *supra*, demonstrates a lack of trustworthiness, competence, and diligence that imperils the public welfare and requires that her license be summarily suspended pursuant to R.I. Gen. Laws § 42-35-14(c).

E. ORDER

Accordingly, it is hereby ORDERED:

1. That, pursuant to R.I. Gen. Laws § 42-35-14(c), Respondent’s real estate broker’s license (B15197) is suspended immediately;

2. That Respondent will cease and desist from any activity requiring licensure pursuant the Rhode Island General Laws pertaining to real estate and *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

3. That, within two (2) business days of the receipt of this Order, Respondent shall provide to the Department:

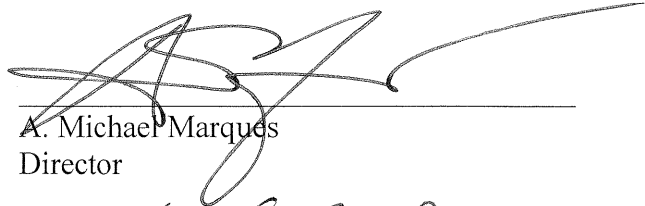
a. The bank statements for the account that exists solely for the purpose of depositing amounts being held in escrow for the brokerage on behalf of clients from January 1, 2008 to the present;

b. The bank statements for the account used for handling operating expenses for the brokerage from January 1, 2008 to the present; and

c. Any documents not otherwise described herein necessary and sufficient to verify and explain the proper deposits and payouts of any funds or other record entries related to the timeshares at issue.

4. That all licensees affiliated with Respondent are precluded from any licensed activity until they associate themselves with another real estate broker in good standing with the Department or the suspension of Respondent's license is removed.

THEREFORE, unless the Director receives a written request for a hearing along with Respondent's answer to this Emergency Order within twenty (20) days of the date of this Emergency Order, the Director will regard Respondent as having been provided notice and an opportunity for hearing, and as having waived the right to a hearing. Unless such written request for a hearing is received within the time period specified above, no hearing will be held on this matter, and the Director will revoke the license by order.



A. Michael Marques
Director

Dated: 11-19-2008

Entered as an Administrative Order No. 08- 184 on this 19th day of November, 2008.

THE DIRECTOR RESERVES THE RIGHT TO PUBLISH A NOTICE OF THIS ORDER IN A NEWSPAPER OF GENERAL CIRCULATION IN THE STATE OF RHODE ISLAND.

CERTIFICATION

I hereby certify on this 19th day of November, 2008, that a copy of the within Emergency Order was mailed by certified and first class mail, postage prepaid, to:

Ethelyn L. Tatreau
Pro Newport Real Estate
28 Memorial Boulevard West
Newport, Rhode Island 02840

David A. Quiroa
9 Ledyard Street
Newport, Rhode Island 02840

Albert P. Ginchereau, Jr.
5 Taber Street
Newport, Rhode Island 02840

Nicolina M. Kelly
277 King Charles Drive
Portsmouth, Rhode Island 02871

Rosalie McClintock Hanscom
P.O. Box 311
Newport, Rhode Island 02840

Kathy H. Perkins
44 Cole Street
Jamestown, Rhode Island 02825

and by first class mail, postage prepaid, to:

John T. Sheehan, Jr., Esq.
Sheehan & Associates
10 Green Lane
Newport, Rhode Island 02840

and by hand-delivery to:

Michael P. Jolin, Esq.
Department of Business Regulation
1511 Pontiac Avenue, Bldg. 68-1
Cranston, Rhode Island 02920

Maria D' Alessandro, Esq.
Department of Business Regulation
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William J. DeLuca
Acting Administrator – Real Estate
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A. Brooke Ellison