

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
JOHN O. PASTORE COMPLEX, BLDG 68-69  
1511 PONTIAC AVENUE  
CRANSTON, RI 02920

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IN THE MATTER OF:	:	
	:	
Jonathan Caba,	:	DBR No.: 18RE002
	:	
Respondent.	:	
	:	

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**ORDER DENYING APPLICATION FOR LICENSE**

**I. INTRODUCTION**

The above-entitled matter came for a hearing on November 15, 2018 pursuant to an Order to Show Cause Why License Should not be Denied, Notice of Prehearing Conference and Appointment of Hearing Officer (“Order to Show Cause”) issued on October 24, 2018 to Jonathan Caba (“Respondent”) by the Department of Business Regulation (“Department”). The Respondent did not appear at hearing. Pursuant to Section 2.9 of the 230-RICR-100-00-2 *Rules of Procedure for Administrative Hearing* (“Rules”), service may be made by hand-delivery or first-class mail and service is complete upon mailing when sent to the last known address of the party. In this matter, the Order to Show Cause was sent to the Respondent’s last known address by first class and certified mail.<sup>1</sup> Since the Respondent was adequately noticed of hearing, a hearing was held before the undersigned on November 15, 2018. Additionally, Section 2.21 of the Rules provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing

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<sup>1</sup> See Department’s Exhibits A (Order to Show Cause) and Two (2) (United States Post Office tracking sheet showing the certified mail was delivered to Respondent). The mailing address was the one given to the Department by the Respondent in his application filed with the Department. See Department’s Exhibit C (application).

by a non-defaulting party. The Department was represented by counsel who rested on the record.

## **II. JURISDICTION**

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 5-20.5-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Rules.

## **III. ISSUE**

Whether the Respondent's application to be licensed as real estate salesperson should be denied pursuant to R.I. Gen. Laws § 5-20.5-1 *et seq.*

## **IV. MATERIAL FACTS AND TESTIMONY**

At hearing, the Department entered as exhibits the following: 1) the Respondent's application dated June 15, 2018 for licensing as a real estate salesperson's (Department's Exhibit C); 2) Cranston Police report indicating that on January 5, 2018, the Respondent was arrested and charged with possession of a schedule I to V controlled substance – first offence (Department's Exhibit D); 3) Providence Police report indicating that on November 22, 2014, the Respondent was arrested for possession of marijuana – first offence (Department's Exhibit E); and 4) Respondent's letter to Department explaining the felony charges (Department's Exhibit G). Based on the Order to Show Cause, the Respondent pled *nolo contendere* to the January 5, 2018 felony charge and was sentenced to three (3) years suspended sentence/probation with conditions. Based on the Order to Show Cause, the Respondent pled *nolo contendere* to the November 22, 2014 felony charge and received a sentence of four (4) years suspended sentence/probation. See Department's Exhibit A (Order to Show Cause).

V. **RELEVANT STATUTES**

R.I. Gen. Laws § 5-20.5-14 provides in part as follows:

Revocation, suspension of license – Probationary period – Penalties. (a) The director may upon his or her own motion, and shall, upon the receipt of the written verified complaint of any person initiating a cause under this section, ascertain the facts and, if warranted, hold a hearing for the suspension or revocation of a license. The director has power to refuse a license for cause or to suspend or revoke a license or place a licensee on probation for a period not to exceed one year where it has been obtained by false representation, or by fraudulent act or conduct, or where a licensee, in performing or attempting to perform any of the acts mentioned in this chapter, is found to have committed any of the following acts or practices:

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(14) Being convicted of any criminal felony in a court of competent jurisdiction of this or any other state or federal court involving dishonesty, breach of trust, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, fraud, false dealing, or any similar offense(s) or by pleading guilty or nolo contendere to any such criminal offense or offenses;

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R.I. Gen. Laws § 5-20.5-4 in part provides as follows:

Examination of applicants – Examination fee – Licensing without examination. (a) The director shall require any applicant for a real estate broker's or salesperson's license to submit to and pass a written examination to show the applicant's knowledge of the state statutes and the rules and regulations relating to real property, deeds, mortgages, leases, contracts, and agency. \*\*\*

(b) \*\*\* The director, in his or her sole discretion, may require any additional evidence or proof as to the honesty, trustworthiness, integrity, good reputation, and competency of any applicant.

VI. **DISCUSSION**

It was undisputed that the Respondent applied for a real estate salesperson's license and was denied a license based on his felony convictions. The Respondent pled *nolo contendere* to two (2) different felony drug possession charges and received suspended sentences/probation. These convictions may be considered in determining whether to deny an application for a real estate license. See *In the Matter of: Michael Brady*, DBR No. 14-

RE-004 (1/22/16).

The Department requested that the undersigned make findings of facts on the basis of the Order to Show Cause and the exhibits and enter a default judgment against Respondent denying his application for a real estate license pursuant to R.I. Gen. Laws § 5-20.5-1 *et seq.*

Based on the foregoing, the undersigned makes the following findings of fact:

1. Pursuant to Section 2.21 of the Rules, the Respondent is declared to be in default for failing to appear at the hearing.
2. Pursuant to Section 2.21 of the Rules, the allegations in the Order to Show Cause are found to be true.

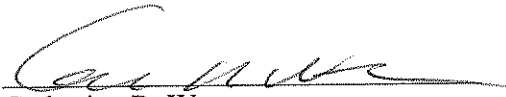
Based on the foregoing, the undersigned makes the following conclusions of law:

1. The Respondent's application for a real estate salesperson license should be denied pursuant to R.I. Gen. Laws § 5-20.5-1 *et seq.*

On the basis of the foregoing, the undersigned makes the following recommendation:

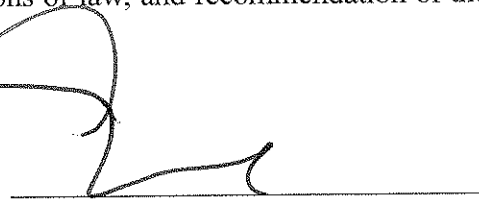
1. The Respondent's application for license as a real estate salesperson is denied.

Dated: December 3, 2018

  
Catherine R. Warren  
Hearing Officer

I have read the Hearing Officer's recommendation in this matter and I hereby ADOPT/REJECT the findings of facts, the conclusions of law, and recommendation of the hearing officer in the above entitled Final Order.

Dated: 12/4/18

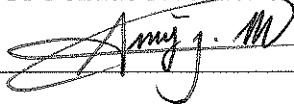
  
Elizabeth Tanner, Esquire  
Director

**NOTICE OF APPELLATE RIGHTS**

**THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify that on this 4<sup>th</sup> day of December, 2018, that a copy of the within Order was sent by first class mail, postage prepaid and by certified mail, return receipt requested to Mr. Jonathan Caba, 221 Dora Street, Providence, R.I. 02909 and by electronic delivery to Jenna Giguere, Esquire, Donna Costantino, and William Deluca, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I.

  
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