

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

IN THE MATTER OF: :
:
EDITH CUSHING : **DBR No.09-I-0037**
:
RESPONDENT. :
:
:

CONSENT AGREEMENT

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

1. Respondent is licensed as a real estate salesperson (License No. S18282) to engage in the business of real estate and was, at all times relevant hereto, affiliated with Re/Max Professionals of Newport as an independent contractor.

2. On August 10, 2007, the Department received a complaint from Diane Davis (“Complainant”) alleging violations of R.I. Gen. Laws § 5-20.5-1, *et seq.* in connection with a real estate transaction for property located at 35 Thurston Street, #1, Newport, Rhode Island.

3. Upon receipt of the complaint, the Department investigated the circumstances of the alleged violations, giving the Respondent the opportunity to respond to the allegations made against her, which she did by letter dated August 30, 2007.

4. Based on the results of its investigation, the Department has reason to believe that the Respondent has violated R.I. Gen. Laws § 5-20.5-26(v), by failing to have transmitted the deposit paid by the Complainant with the General Treasurer with knowledge that the ownership of said deposit monies were in dispute.

5. R.I. Gen. Laws § 5-20.5-26(v), and Section 19(C)(1) of the Department of Business Regulation Commercial Licensing Regulation 11 “*Real Estate Brokers and Salespersons*” 11 (*effective dates prior to May 27, 2009*) and Rule 7(C)(1) of Commercial Licensing Regulation 11 (*effective dates prior to May 27, 2009*) provide that whenever the

ownership of any deposit monies received by a licensee is in dispute by the parties to a real estate transaction, the monies shall be transmitted to the General Treasurer within one hundred eighty (180) days of the date of the original deposit, or promptly thereafter, those monies to be held in trust by the General Treasurer until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties.

6. 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.

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

5. The Department initiated this administrative enforcement proceeding against the Respondent on February 18, 2009 seeking sanctions relative to this complaint.

BASED ON THE FOREGOING, the Department has reason to believe that Respondent violated the within cited statutes, and therefore has sufficient cause to assess an administrative penalty pursuant to R.I. Gen. Laws § 5-20.5-14(b).

In an effort to effect a timely and amicable resolution of the issues raised in this Consent Agreement without the continuation of the administrative hearing process or a finding of a violation of R.I. Gen. Laws § 5-20.5-1, *et seq.* and to allow Respondent to maintain her license in good standing, the Respondent agrees:

1. Respondent shall pay an administrative penalty in the amount of \$250.00, payable to the Rhode Island General Treasurer, for failing to insure that disputed deposit monies were transmitted to the General Treasurer within the proscribed time period, and failing to notify the parties of the statutory requirements regarding disputed deposits, in violation of the laws and regulations cited in paragraph 4 herein.


2. By agreeing to resolve this matter through the execution of this Consent Agreement, the Respondent voluntarily waives her right to the administrative hearing process, voluntarily waives her right to appeal any finding therefrom to the Superior Court, and agrees to take all necessary action as delineated in this Consent Agreement to maintain her license in good standing

If Respondent fails to abide by any of the requirements of this Consent Agreement, the Department will reinstitute administrative proceedings to impose penalties against Respondent including, but not limited to: (i) suspension, (ii) revocation, and/or (iii) such additional administrative penalties as deemed appropriate by the Department. Respondent shall be provided with notice and opportunity for hearing should the Department decide to take such further action.

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

Department of Business Regulation
By its Legal Counsel:

Respondent:



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



Edith Cushing

Date: 7/28/11

Date: 7-20-11