

**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:

DIANE JOHNSON

RESPONDENT.

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DBR No. 09-L-0191

CONSENT AGREEMENT

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

1. Respondent is licensed as a real estate salesperson (License No. S28833) to engage in the business of real estate, and is affiliated with Century 21, Butterman & Kryston, Inc. (the “Agency”)
2. On June 23, 2009, the Department received a complaint from Scott Vickers (“Complainant”) alleging violations of R.I. Gen. Laws § 5-20.5-1, *et seq.* in connection with a real estate transaction involving property located at 70 Holland Avenue, East Providence, Rhode Island.
3. The complaint alleged that the Respondent agreed to list real estate owned jointly by the Complainant and his former wife, and that the Listing Agreement which was prepared by the Respondent and signed by both Sellers on January 19, 2009 did not contain the effective dates of the contractual period.
4. The complaint further alleges that the listing was not removed from the agency web site upon demand by the Complainant.
5. Based on the response to the Complaint provided to the Department by the Respondent, and a review of the documentary evidence provided, the Department has determined that the Respondent did cause the sellers to execute an undated Listing Agreement document on January 19, 2009, and filled in the dates after the document was executed and the parties provided copies.

6. The Department further has reason to believe that although the Respondent knew that the sellers were no longer married and were joint owners of the property, the Respondent was acting only in the best interest of the complainant's former wife, and communicated solely with her to the exclusion of the complainant throughout the transaction.

7. R.I. Gen. Laws § 5-20.5-14(a)(10) authorizes the Department to suspend or revoke a license where a licensee fails to specify a definite termination date that is not subject to prior notice, in any listing contract.

8. R.I. Gen. Laws § 5-20.5-14(a)(21) 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 the sale, including the commission to be paid, the signatures of all parties concerned and a definite expiration date in that contract which shall not require an owner to notify a broker of his or her intention to terminate.

9. Section 22(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that all licensees shall deal fairly with all parties to a real estate transaction.

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

11. 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.

BASED ON THE FOREGOING, the Department has reason to believe that Respondent violated R.I. Gen. Laws, § 5-20.5-14(a)(10) and (21) and Section 22(A), *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* by the following acts:

(a) causing a Seller to execute an undated contract into which the dates were filled in after copies were provided; (b) failing to have a listing agreement in writing which properly

identified the property and containing all the terms and conditions of sale, including the commission to be paid, the signatures of all parties concerned and *a definite expiration date in the contract* at the time of its execution by the Seller; and (c) failing to deal fairly with all parties to a real estate transaction.

Accordingly, the Department has sufficient cause to assess an administrative penalty pursuant to R.I. Gen. Laws § 5-20.5-14(b).

THEREFORE, in an effort to effect a timely and amicable resolution of the issues raised in this Consent Agreement without an administrative hearing or a finding of a violation of R.I. Gen. Laws § 5-20.5-1, *et seq. or Commercial Licensing Regulation 11*, and to allow Respondent to maintain her license in good standing, Respondent agrees to do the following to resolve this matter:

- I. To make a payment of FIVE HUNDRED (\$ 500.00) DOLLARS on the date of execution of this Agreement, as an administrative penalty, payable to the Rhode Island General Treasurer.
- II. To make a payment of FIVE HUNDRED (\$500.00) DOLLARS within thirty (30) days from the date of execution of this Agreement, as an administrative penalty, payable to the Rhode Island General Treasurer.
- III. To voluntarily waive her right to the administrative hearing process and to voluntarily waive her right to appeal this matter to the Rhode Island Superior Court, and agrees to take all necessary action as delineated in this Consent Agreement in order to maintain his license in good-standing.

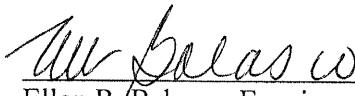
In making its offer to the Respondent to settle this complaint without further administrative action, the Department has considered the mitigating factors contained in the statement of the Respondent, including her belief that there was a verbal agreement between the parties that the property was not yet marketable, and that the beginning date of the listing would be some time after the execution of the document.

If Respondent fails to abide by any of the requirements of this Consent Agreement, the Department will initiate 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.

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:**

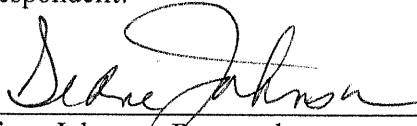
Department of Business Regulation
By its Legal Counsel:



Ellen R. Balasco, Esquire
Deputy Chief of Legal Services
Department of Business Regulation

Date: 10/15/09

Respondent:



Diane Johnson, Respondent
Century 21 – Butterman & Kryston, Inc.
749 East Avenue
Pawtucket, RI 02860

Date: 10-15-09