

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BLDG. 68, 69
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF: :
: **DBR No. 13RE136**
CYNTHIA A. DZIURGOT, :
:
RESPONDENT. :

DECISION AND ORDER OF REVOCATION

Hearing Officer: Jenna Algee, Esq.

Hearing Held: March 19, 2014

Appearances:

For the Department of Business Regulation, Division of Commercial Licensing: Ellen Balasco, Esq.

For Respondents: No appearance by Respondent or counsel.

I. INTRODUCTION

This matter commenced with an Order to Show Cause Why License Should Not Be Revoked, Notice of Hearing and Appointment of Hearing Officer (“Order”) issued by the Director of the Department of Business Regulation (“Department”) to Cynthia A. Dziurgot (“Respondent”) on February 14, 2014. Pursuant to R.I. Gen. Laws § 42-6-8, the Director appointed the undersigned as Hearing Officer for the purpose of conducting the hearing and rendering a decision in this matter. The Respondent failed to appear as required by the Order, despite having been properly served by the Department. Therefore, it is

recommended that the Respondent be defaulted and an Order of Revocation be issued pursuant to R.I. Gen. Laws § 5-20.5-14(a).

II. JURISDICTION

The Department has jurisdiction over this matter pursuant the R.I. Gen. Laws § 5-20.5-1 *et seq.*, subject to the relevant provisions of the Administrative Procedures Act, 42-35-1 *et seq.*

III. FINDINGS OF FACT

The undersigned Hearing Officer makes the following findings of fact:

1. Respondent holds a real estate broker's license, No. REB.0016771.
2. On February 14, 2014, the Director of the Department issued an Order requiring Respondent to appear before the Department on March 19, 2014 to answer why the Director of the Department should not issue an order revoking the Respondent's license pursuant to R.I. Gen. Laws § 5-20.5-14(a).
3. The Respondent failed to appear at the Department on that date and failed to otherwise defend the allegations contained in the Order in any manner.
4. The Certifications attached to the Order attest that the Order was served on the Director of the Department.
5. The Certifications evidence that the Order was sent to Respondent by certified mail, return receipt requested, to: 1 Commercial Wharf, Newport, RI 02840.
6. Voter registration records of the Rhode Island Secretary of State indicate that the Respondent resides at 1 Commercial Wharf, Newport, RI 02840.

7. The undersigned takes administrative notice that the Respondent was disbarred from the practice of law by the Commonwealth of Massachusetts Supreme Judicial Court on April 11, 2011. (Department's Exhibit # 2).
8. The Respondent never reported the disciplinary action to the Department.
9. On May 1, 2012, the Respondent filed an online renewal application for her Rhode Island broker license. On said application, Respondent indicated that she had not received any professional disciplinary action against her since her last renewal in 2010.

IV. CONCLUSIONS OF LAW

1. The Respondent has defaulted within the meaning of Central Management Regulation 2 *Rules of Procedure for Administrative Hearings*, Section 21, which provides:

“If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the nondefaulting Party as the Hearing Officer deems appropriate in his/her sole discretion or take such other action as the Hearing Officer deems appropriate in his/her sole discretion. Challenge to such an order shall be made as a motion for reconsideration per Section 19.”

2. The Department has complied with the requirements of R.I. Gen. Laws § 42-35-9 regarding notice in contested cases because the Respondent was afforded an opportunity for a hearing after reasonable notice.
3. By failing to report her disbarment within 60 days, Respondent has violated Commercial Licensing Regulation 11 *Real Estate Brokers and Salespersons*, Section 13 which provides that “[a]ny licensee convicted of, or otherwise pleads guilty or *nolo contendere* to, any felony or misdemeanor, or is disciplined by any

governmental agency in connection with any other occupational license, shall file with the Department a written report of such conviction or disciplinary action within sixty (60) days of the final judgment or final order in the case.”

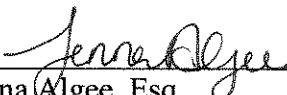
4. By failing to report her disbarment within 60 days, Respondent violated § 5-20.5-14(a)(15) which authorizes revocation for “[v]iolating any rule or regulation promulgated by the department in the interest of the public and consistent with the provisions of this chapter.”
5. By failing to disclose her disbarment on the renewal application, Respondent violated § 5-20.5-14(a)(1) which authorizes revocation for “[m]aking any substantial misrepresentation.”
6. Based upon the forgoing, it is appropriate for the Director to issue an Order of Revocation pursuant to R.I. Gen. Laws § 5-20.5-14(a).

V. **RECOMMENDATION**

THEREFORE, the Hearing Officer recommends that the Director order that:

1. The Respondent is defaulted for her failure to appear or otherwise defend this administrative enforcement action;
2. Respondent’s real estate broker’s license is hereby revoked.

DATED: 03/31/14



Jenna Algee, Esq.
Hearing Officer

ORDER

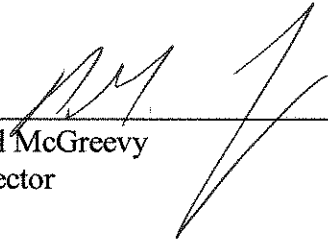
I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

MODIFY

Dated: 31 March 2014



Paul McGreevy
Director

ENTERED as Administrative Order No. 14-17 on the 1st day of April 2014.

NOTICE OF APPELLATE RIGHTS

THIS DECISION AND 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 1st day of April 2014, a true copy of this Decision and Order was sent by first class mail, postage prepaid to:

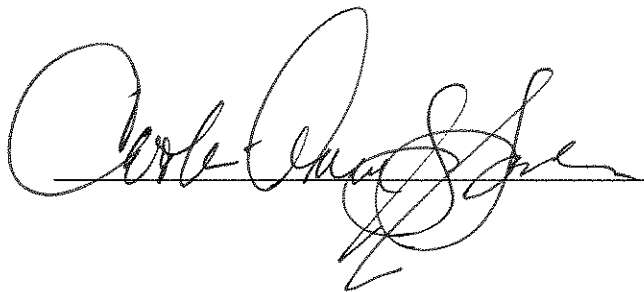
Cynthia A. Dziurgot
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Cynthia A. Dziurgot
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Fort Lauderdale, FL 33307

Cynthia A. Dziurgot
1 Commercial Wharf
Newport, RI 02840

A handwritten signature in black ink, appearing to read 'Cynthia A. Dziurgot', written over a horizontal line. The signature is highly stylized and cursive.