

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER. 68-1
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF:	:	
	:	
	:	
CHRISTINE ADAMS,	:	DBR No.: 09-L- 0144
FUTURE PROPERTIES, INC.,	:	
	:	
RESPONDENT.	:	
	:	

**EMERGENCY ORDER SUMMARILY 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 Summarily Suspending License, Notice of Intent to Revoke License, Impose Administrative Penalty, and Provide Notice of Opportunity for Hearing (“Emergency Order”) to Christine Adams, individually and as Principal Broker for Future Properties, Inc. (“Respondent”).

Upon receipt of a written request for a hearing within thirty (30) days of the date of this Order, a Hearing Officer will be appointed by the Director and the matter will be set down for hearing no less than twenty (20) and no more than sixty (60) days from the date such request is received. The Director will promptly notify the Respondent of the time and place for any hearing. If no hearing is requested and none is ordered by the Director, this Order shall become permanent thirty (30) days after entry and shall remain in effect unless or until it is modified or vacated by the Director or his successor.

The Director makes the following findings of fact and conclusions of law with respect to entry of this Emergency Order:

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. B15385, issued May 1, 2008, 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 represented the seller of property located at 7 Brighton Street, Providence, Rhode Island (the “subject property”), in accordance with a written listing agreement executed on March 13, 2008. Said listing agreement had an expiration date of September 13, 2008.

3. On April 9, 2009, the Department received a complaint from a potential buyer of said property (“Complainants”).

4. Complainants viewed the subject property on August 8, 2008 and made an offer to purchase, which was rejected by the Seller.

5. On October 17, 2008, the Respondent re-listed the subject property, although she did not have a valid listing agreement with the legal owner of the property to do so.

6. On October 24, 2008 the complainants again viewed the subject property, and then submitted a new offer, which was accepted by Kathryn Taleriko.

7. A Purchase and Sales Agreement (Agreement "A") was prepared by the Complainants' broker, Jane Driver of Armory Properties LLC, specifying a purchase price of \$189,000.00 with a \$10,000 deposit paid upon execution, and a closing date of December 1, 2008. The Respondent was not listed as a broker on Agreement "A."

8. During the preparation of said Agreement "A", Driver discovered by checking the land evidence records that Kathryn M. Taleriko was not the legal owner of the subject property. Accordingly, the Agreement listed Taleriko "or current owner of record" as the seller(s).

9. The Complainants executed Agreement "A" on or about October 29, 2008, and tendered a personal check in the amount of ten thousand (\$10,000.00) dollars made payable to Future Properties, Inc. Said Agreement was executed by Kathryn M. Taleriko, as the only "Seller", on November 6, 2008.

10. Subsequent to signing the Purchase and Sales Agreement, the buyers' broker (Driver) informed the Complainants that Taleriko had transferred the property via quit-claim deed sometime during 2007 to a person named Karl Aziz, thereupon verifying that Taleriko was not the owner of the subject property when she signed Agreement "A" on November 6, 2008.

11. It is alleged by the Complainants that, when Respondent was questioned about Taleriko not being the owner of record, she admitted that she had knowledge of that fact, and that she would insure that the subject property was transferred back into Taleriko's name prior to closing. In fact, Respondent had prepared a previous Purchase

and Sales Agreement (Agreement “B”) for the subject property in February of 2008 which named both Taleriko and Karl Aziz as the Owner/Sellers, evidencing her prior knowledge that the information and signatures on Complainants’ agreement was false.

12. Complainants allege that, throughout the course of the transaction until November 8, 2008, the Respondent had misrepresented the identity of the legal owner of record for the subject property.

13. The closing did not take place on December 1, 2008, the date specified in the Purchase and Sales Agreement in effect at that time. The Complainants’ allege that the reason for the failure of the sales transaction was the Respondent’s unwarranted assertions that the lending bank would accept the terms of a so-called “short sale,” which it declined.

14. On January 21, 2009, the Respondent forwarded to the Complainants’ Broker (Driver) a Release of Purchase Agreement and Disbursement of Escrow form via facsimile transmission, along with a written promise to return the deposit once the Release form was executed.

15. As Complainants’ were not in agreement with the terms and provisions of the Release prepared by the Respondent, their attorney drafted an alternative “Release of Purchase Agreement and Disbursement of Escrow” form which was executed by Complainants and Seller/Owner, and forwarded to the Respondent on March 19, 2009. Respondent failed to respond to this request. Said attorney made another request for return of the escrowed deposit in a letter dated March 27, 2009.

16. On March 31, 2009, a second attorney engaged by Complainants requested the return of the escrowed funds in a letter to the Respondent. The Respondent has refused

and continues to refuse to return the Complainant's deposit to them or to otherwise respond to said requests.

17. On or about April 28, 2009, the Complainants purchased the subject property from Taleriko, who was at that time the legal owner. The Respondent had no part in the negotiation, document preparation or execution of the Purchase and Sales Agreement in effect at the time of that closing.

18. Respondent was aware from at least December 30, 2008 forward that the ownership of the deposit amount of \$10,000.00 was in dispute, but failed to deposit said monies after 180 days with the Rhode Island General Treasurer, as required by Section 19(C) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

19. Respondent has admitted to the Department of Business Regulation that the deposit monies in dispute were deposited into her "Client Escrow Account" and that those monies remained there as of May 29, 2009.

20. The Respondent, having knowledge that the ownership or return of Complainant's deposit monies were in dispute, failed to transmit said funds to the General Treasurer and notify the parties in question accordingly.

C. RELEVANT LAW

1. R.I. Gen. Laws § 5-20.5-14(a)(1) authorizes the Department to suspend or revoke a license where a licensee makes a substantial misrepresentation in a real estate transaction.

2. 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.

3. 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.

4. 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, property identifying the property and containing all the terms and conditions of sale and the signatures of all parties concerned.

5. R.I. Gen. Laws § 5-20.5-14(a)(28) authorizes the Department to suspend or revoke a license where a licensee wrongfully fails to refund to the buyer any sums of money paid by the buyer and held by the broker when the seller wrongfully fails or is unable to consummate a transaction and the buyer is ready, willing and able to do so.

6. R.I. Gen. Laws § 5-20.5-26 provides in pertinent part:

(i) Each real estate firm shall maintain an escrow account under the supervision of the broker qualified to do business in the name and on behalf of the corporate, partnership or association licensee. All those funds paid to a salesperson or paid directly to a broker shall be segregated on the broker's books and deposited in an account in a recognized federally insured financial institution in Rhode Island separate from any account containing funds owned by the broker. A broker or salesperson shall not commingle deposit money or other customers' funds and his or her own funds, use a customer's funds as his or her own, or fail to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three (3) years, showing to whom the money belongs, date deposited, date of withdrawal, to whom paid, and any other pertinent information that the commission requires. Those records are to be available to the commission and the department or their representatives, on demand, or upon written notice given to the depository. Each broker/office supervisor shall maintain a monthly report as to the status of that office's escrow account, and is responsible for its accuracy.

(v) Whenever the ownership of any deposit monies received by a broker or salesperson pursuant to this section is in dispute by the parties to a real estate transaction, the broker or salesperson shall deposit the monies with the general treasurer within one hundred eighty (180) days

of the date of the original deposit, those monies to be held in trust by the general treasurer until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties. The parties to a real estate transaction may agree in writing to extend the time period by which the monies must be deposited with the general treasurer in accordance with regulations promulgated by the department of business regulation.

(vi) The department of business regulation shall have the authority to promulgate rules and regulations with respect to such escrow accounts and the deposit of monies with the general treasurer.

7. Section 18 (A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires a principal broker to be responsible for each and every escrow account maintained on behalf of the brokerage, that the account statement bear the words “Trust Account” or “Escrow Account” and prohibits the commingling of funds by failing to segregate promptly any monies received that are held for the benefit of others.

8. Section 19(C)(1) and (2), of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* provides:

(1) If the ownership of the deposit monies is still disputed after 180 days from the date of the original deposit, the licensee must transmit the deposit to the General Treasurer, along with the “Escrow Deposit Transmittal Form”, and

(2) A minimum of thirty (30) days prior to the expiration of the 180 days, the broker shall by written letter inform the parties of the statutory requirements regarding disputed deposits.

7. 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 Department has reason to believe that Respondent violated the provisions of R.I. Gen. Laws § 5-20.5-14(a)(1) (15), (20), (21) and (28) and Sections 18 and 19 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*. The Director finds that due to the Respondent’s failure to demonstrate trustworthiness, competence, and diligence based on Respondent’s conduct described in Section B, *supra*, and incorporated herein, the public welfare imperatively requires that Respondent’s 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 license is immediately suspended;
2. That Respondent will cease and desist from any activity requiring licensure pursuant to 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 for Future Properties, Inc. that exists solely for the purpose of depositing amounts being held in escrow from January 1, 2008 to the present;
 - b. The bank statements for any accounts used for handling operating expenses of Future Properties Inc. from January 1, 2008 to the present; and
 - c. Any documents not otherwise described herein necessary and sufficient to verify and explain the proper deposit of any funds or other record entries related to any and all real estate transactions for the subject property herein.

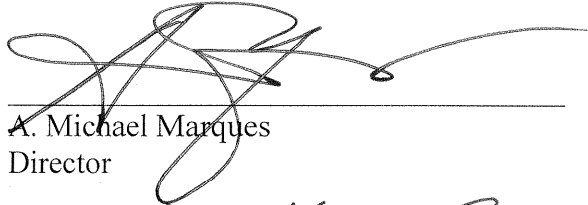
d. A detailed listing of the source for each deposit into Respondent's escrow account(s) identified by name of source and date of sale or transaction.

e. A detailed accounting for each withdrawal or transfer from Respondent's escrow accounts, specifying whether it represented an earned commission on a real estate transaction, and the owner and type of account into which it was transferred.

4. Respondent shall notify all parties with whom she is currently engaged in licensed activity that her License has been suspended pursuant to this Order.

5. Respondent shall notify the Department of all pending real estate transactions in which she or Future Properties is involved, and the names of all affiliated salespersons or brokers.

6. Respondent shall transfer responsibility for the operation of Future Properties RE Academy to a licensed real estate broker who has been approved by the Department.



A. Michael Marques
Director

Dated: 06-24-2009

Entered as an Administrative Order No. 09- 154 on this 24th day of June, 2009.

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

CERTIFICATION

I hereby certify on this 24th day of June, that a copy of the within Emergency Order was mailed by certified mail, return receipt requested, and also by first class mail, postage prepaid, to:

Christine Adams
Future Properties, Inc.
727 Central Avenue
Pawtucket, RI 02861

and by electronic mail to:

Maria D'Alessandro, Esq.
Associate Director, Commercial Licensing
Department of Business Regulation

William DeLuca
Acting Administrator – Real Estate
Department of Business Regulation

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

A handwritten signature in black ink, appearing to read "Ellen R. Balasco", is written over a horizontal line.