

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
233 RICHMOND STREET
PROVIDENCE, RHODE ISLAND 02903

IN THE MATTER OF	:	
	:	
DAVID A. LUTZ	:	DBR No. 06-L-0248
	:	
RESPONDENT.	:	
	:	

CONSENT AGREEMENT

The Department of Business Regulation (“Department”) and David A. Lutz (“Respondent”) hereby agree that:

1. Respondent is licensed as a salesperson to engage in the business of real estate.

2. R.I. Gen. Laws § 5-20.5-6(b) provides that the Department, after a due and proper hearing, may suspend, revoke, or refuse to renew any license upon proof that the license was obtained by fraud or misrepresentation or upon proof that the holder of the license has violated this statute or any rule or regulation issued pursuant to this statute.

3. R.I. Gen. Laws § 5-20.5-14(a)(15) authorizes the Department to suspend or revoke a license if a licensee is found to have violated any rule or regulation promulgated by the commission or the department in the interest of the public and consistent with the provisions of this chapter.

4. R.I. Gen. Laws § 5-20.5-12(a)(2) provides that the Department shall establish any reasonable rules and regulations that are appropriate to insure that education and practice requirements of license holders meet the public interest.

5. Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* provides:

(A) Prior to renewal of any Broker's or Salesperson's License, the Licensee shall make a positive affirmation, either in writing or electronically, certifying under penalty of perjury to the Real Estate Section of the Department that the Licensee has attended and successfully completed during the preceding two (2) year period, eighteen (18) clock hours of real estate oriented educational sessions or courses of instruction of which at least six (6) clock hours must come from the following core courses:

- Law of Agency
- Law of Contracts
- Fair Housing
- Lead Hazard Mitigation
- RI License Law & Ethics

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(C) The individual Licensee shall have the responsibility to:

1. Fulfill the requirements of this regulation; and
2. Affirm, swear and certify under penalty of perjury, compliance with the Continuing Education requirements set forth herein.

(D) Completion of the requirements of this section will be a condition precedent to renewal of a License. A Licensee's misrepresentation or false certification as to course attendance and completion will subject such Licensee to a "show cause" order as to why said Licensee's License should not be revoked. If a Licensee fails to show cause, the Director may revoke the License.

6. For the renewal period beginning May 1, 2006, the Department adopted a policy whereby a license holder is no longer required to submit paper copies of certificates of completion of approved continuing education courses.

7. In lieu of submitting paper copies of certificates of completion, the Department relies on the good faith representation of each license holder that he or she has met the continuing education requirement.

8. Pursuant to R.I. Gen. Laws § 5-20.5-12(a)(2) and Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, the Department instituted a random auditing program to ensure compliance with the continuing education requirements.

9. The Department randomly selected Respondent to participate in the audit and sent Respondent a letter dated October 11, 2006 requiring him to provide proof of attendance and successful completion of eighteen (18) hours of approved continuing education, of which six (6) hours must have been a core course as defined in Rule 29, for the time period of May 2004 through April 2006.

10. In the October 11, 2006 letter, the Department required Respondent to provide paper copies of certificates of completion from approved continuing education courses by November 10, 2006.

11. Respondent failed to comply with the November 10, 2006 deadline as provided in the Department's October 11, 2006 letter.

12. Based on the foregoing, the Department has reason to believe that Respondent violated a directive of the Department and is in violation of R.I. Gen. Laws § 5-20.5-14(a)(15) and Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

13. Respondent filed a timely request for a hearing pursuant to the Department's Notice of Intent to Revoke License and Opportunity for Hearing dated December 14, 2006 but has yet to provide evidence of attendance and successful completion of eighteen (18) hours of approved continuing education, of which six (6) hours must have been a core course as defined in Rule 29, for the time period of May 2004 through April 2006.

14. By agreeing to and executing this Consent Agreement, Respondent voluntarily waives his right to the hearing process, voluntarily waives his right to appeal to Superior Court, admits that the allegations in paragraphs 1 through 13 are true, and agrees to take all necessary action as delineated in this Consent Agreement below in order to obtain and maintain the license in good-standing:

A. Respondent understands that the Department is charged with protecting the public by ensuring that its Licensees are competent and trustworthy and are reasonably familiar with the statutes and law relating to real estate.

B. Respondent shall comply with all terms and requirements for licensure under R.I. Gen. Laws §§ 5-20.5-1, *et seq.* and 5-20.6-1, *et seq.*, and Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.


C. Respondent will provide evidence of attendance and successful completion of eighteen (18) hours of approved continuing education, of which six (6) hours must have been a core course as defined in Rule 29, for the time period of May 2004 through April 2006, within thirty (30) days from the date of the Department's execution of this Consent Agreement.

D. Respondent agrees to pay a fine in the amount of \$500.00, payable to the Rhode Island General Treasurer, by check or money order, within thirty (30) days from the date of the Department's execution of this Consent Agreement.

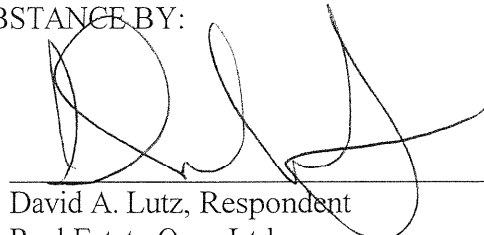
15. If Respondent fails to meet or abide by any of the requirements of this Consent Agreement, the Department will initiate further administrative proceedings to impose penalties against Respondent including, but not limited to: (i) suspension, (ii)

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.

CONSENTED TO AS TO FORM AND SUBSTANCE BY:



Michael P. John, Esq.
Deputy Chief of Legal Services
Department of Business Regulation



David A. Lutz, Respondent
Real Estate One, Ltd.
1645 Warwick Avenue
Warwick, Rhode Island 02889

Date: 6/27/08

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