

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER, BLDGS. 68-69
1511 PONTIAC AVENUE
CRANSTON, RI 02920

Division of Commercial
Licensing and
Racing and Athletics

OCT 05 2009

RECEIVED
Real Estate

IN THE MATTER OF:

ALLEN B. GAMMONS, JR.

DBR No.: 09-L-0192

RESPONDENT.

CONSENT AGREEMENT

The Department of Business Regulation (“Department”) and Allen B. Gammons, Jr. (“Respondent”) hereby consent and agree that:

1. On or about July 23, 2008, the Department received a complaint (“Complaint”) filed by Kenneth Hopkins (“Complainant”) through his agent, Charles Savastano, against Susan Rowles, as an affiliated licensee at Prudential Gammons Realty, LLC (“the agency”) arising out of a real estate transaction for the property located at 34 Waveland Street, Johnston, Rhode Island (“subject property”).

2. At all times pertinent hereto, Respondent was licensed by the Department as the Principal Broker for Prudential Gammons Realty, LLC, holding license C15256.

3. On or about October 22, 2007, the Complainant executed a Purchase and Sales Agreement for the subject property, which named Susan Rowles, a licensed affiliate of Prudential Gammons Realty, LLC as the Listing Agent acting on behalf of the Seller exclusively. Said Agreement called for the payment of \$2,500.00 as a deposit from the Complainant and set a closing date of November 30, 2007.

4. After a home inspection report revealed significant deficiencies with the subject property, the Complainant and the seller of the property engaged in negotiations through their respective agents to cure, compensate or otherwise address the problems

discovered by inspection. Said negotiations did not result in a satisfactory resolution of the issues, and the closing did not take place on the projected date.

5. On December 3, 2007, the agency was notified in writing by the Complainant's agent via facsimile transmission that the Complainant was no longer interested in purchasing the subject property, and that he was requesting the return of his deposit.

6. The agency was notified on January 16, 2008 by Susan Rowles that the Seller of the subject property was refusing to release and refund the deposit monies to the Complainant and further that litigation had been filed between the buyer and seller in the Rhode Island Superior Court for breach of contract, and that the ownership of said deposit monies was in dispute.

7. The Respondent was directly notified by electronic mail on January 16, 2008 that the disputed funds remained on deposit in his agency's escrow account.

8. The disputed deposit monies remained in the agency's escrow account, with the knowledge of the Respondent, until September 16, 2009 - approximately one year and ten months time since the deposit was paid.

9. The Respondent and Susan Rowles, as an affiliated licensee, each failed to insure that the disputed deposit monies were transmitted to the General Treasurer within the proscribed time period, and further failed to notify the parties of the statutory requirements regarding disputed deposits in violation of the within cited laws and regulations.

10. The Respondent had, at all times relevant hereto, an affirmative duty and obligation in accordance with the Rhode Island General Laws and the Department's Commercial Licensing regulations to adequately supervise every real estate transaction in which his affiliated licensee participated, and was responsible for her compliance with said laws.

11. 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 of May 27, 2009 through September 16, 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.

12. Section 19(C)(2) of Department of Business Regulation Commercial Licensing Regulation 11 (*effective dates of May 27, 2009 through September 16, 2009*) and Rule 7(C)(2) of Commercial Licensing Regulation 11 (*effective dates prior to May 27, 2009*) provide that a licensee must inform the parties to a real estate transaction in writing of the statutory requirements regarding disputed deposits.

13. Sections 4(A) and 4(E)(1) of Commercial Licensing Regulation 11 (*effective dates of May 27, 2009 through September 16, 2009*) and Rule 2(A) and (B) of Commercial Licensing Regulation 11 (*effective dates prior to May 27, 2009*) provide that a principal broker shall act in a supervisory capacity for every real estate transaction in which an affiliated licensee of the agency participates.

14. R.I. Gen. Laws § 5-20.5-14(a)(16) authorizes the Department to suspend or revoke a license where a licensee, in performing or attempting to perform any of the acts mentioned in this chapter, fails to exercise adequate supervision over the activities of his licensed salesperson if the broker has knowledge of any misdeeds of his sales staff.

15. Based on the foregoing, the Department has reason to believe that Respondent has violated R.I. Gen. Laws §§ 5-20.5-14(a)(16) and 5-20.5-26(v), and also Sections 4(A) and 4(E)(1), 19(C)(1) and (2), (in addition to rules in effect prior to current amended regulation.)

16. The Department has sufficient cause to suspend or revoke Respondent's license pursuant to R.I. Gen. Laws § 5-20.5-14(a) and assess an administrative penalty pursuant to R.I. Gen. Laws § 5-20.5-14(b).

WHEREFORE, in an effort to effect a timely and amicable resolution of the issues raised in this Consent Agreement without an administrative hearing and to allow Respondent to maintain his license in good-standing, Respondent agrees to the following:

a. Respondent shall pay an administrative penalty in the amount of \$500.00, to the Rhode Island General Treasurer, for failing to adequately supervise the real estate transactions in which his affiliated licensee participated, in violation of the laws and regulations set forth in paragraphs 13 and 14 herein;

b. Respondent shall pay an administrative penalty in the amount of \$500.00, 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 paragraphs 11 and 12 herein.

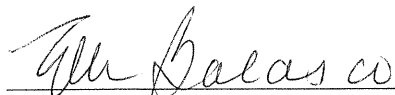
By agreeing to resolve this matter through the execution of this Consent Agreement, the Respondent voluntarily waives his right to the administrative hearing process, voluntarily waives his right to appeal any finding therefrom to the Superior Court, and agrees to take all necessary action as delineated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

Respondent hereby acknowledges and agrees that failure to abide by any of the requirements of this Consent Agreement shall be grounds for the Department to initiate further administrative proceedings to impose penalties against Respondent including, but not limited to: (i) revocation and/or suspension, and (ii) such additional administrative penalties that the Department deems appropriate, pursuant to R.I. Gen. Laws § 5-20.5-14.

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

Date: 10/6/09



ALLEN B. GAMMONS, JR.

Date: 10-01-09