

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER
1511 PONTIAC AVENUE, BLDG. 68-1
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF

GINA MERLINO,

RESPONDENT.

:
:
:
:
:
:
:
:
:
:
:
:

DBR No. 10-L-0079

ORDER OF REVOCATION

Pursuant to R.I. Gen. Laws §§ 5-20.5-1 *et seq.*, 42-14-16 and 42-35-14, the Director (“Director”) of the Rhode Island Department of Business Regulation (“Department”) hereby issues this Order of Revocation (“Order”) revoking Real Estate salesperson license number S28403 of Gina Merlino (“Respondent”).

1. Respondent was licensed by the Department as a salesperson to engage in the business of real estate (License No S28403).

2. 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.

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 § 5-20.5-6(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.

5. Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, in effect at the time of the 2008 renewal cycle, provides:

- (A) Prior to renewal of any brokers or salespersons 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

and, further provides:

- (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 shall subject the 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.

4. In lieu of submitting paper copies of certificates of completion, the Department relies on the good faith representation of each license holder who renews a license that he or she has met the continuing education requirement. Each license holder signs his or her renewal application under the pains and penalties of perjury and acknowledges that providing false information in the application is a basis for disciplinary action by the Department.

5. 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.

6. Respondent was randomly selected to participate in the audit of applicants for the 2008 renewal cycle and she received a letter dated August 5, 2009 requesting that she provide proof of successful completion of all required continuing education courses, for the time period of May 1, 2006 through April 30, 2008.

7. In the August 5, 2009 letter, the Department required Respondent to provide paper copies of certificates of completion from approved continuing education courses by September 8, 2009.

8. Respondent failed to comply with the Department's August 5, 2009 letter.

9. A "Second Request" letter dated January 7, 2010 was received by the Respondent which restated the contents of the prior letter, and further advised the Respondent that licensees who failed to comply with the request would be subject to administrative enforcement action by the Department.

10. Respondent failed to comply with, or respond to the Department's January 7, 2010 letter.

11. On June, 16, 2010, the Director issued a Notice of Intent to Revoke License ("Notice") to Respondent, pursuant to R.I. Gen. Laws §§ 5-20.5-14, 42-14-14 and 42-35-9, which provided her twenty (20) days of the date of the Notice to file a request for a hearing setting out her answer to the grounds specified in the Notice with the Department.

12. The Notice further provided that, if Respondent failed to request a hearing within twenty (20) days of the date of the Notice, no hearing would be held and the

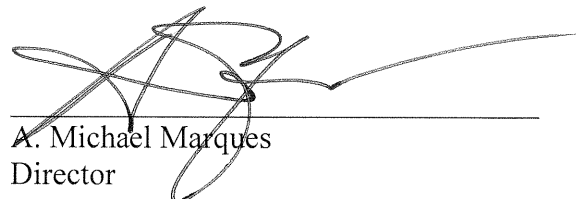
Director could order the revocation of Respondent's license or some other appropriate administrative penalty.

13. Respondent did not request a hearing within twenty (20) days as required in the Notice and R.I. Gen. Laws § 5-20.5-15(a).

14. The Notice was sent by first class mail, postage prepaid, and certified mail, return receipt requested, to Respondent's address on record with the Department. Neither envelope was returned to the Department undelivered. As such, the Notice was properly served on Respondent.

THEREFORE, due to Respondent's violations as alleged above, his failure to respond to the Notice and the allegations contained therein, and his failure to request a hearing, the Director finds the Respondent has violated a directive of the Department and has violated R.I. Gen. Laws § 5-20.5-14(a)(15) and Rule 29 of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*, which was in effect at all times pertinent hereto.

Accordingly, it is hereby ORDERED that Respondent's real estate salesperson license is hereby revoked, pursuant to R.I. Gen. Laws § 42-35-14.



A. Michael Marques
Director

Dated: 07-20-2010