

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

<u>IN THE MATTER OF:</u>	:	
	:	
<u>ALYSSA POLOFSKY</u>	:	DBR NO. 17AP001
	:	
<u>RESPONDENT.</u>	:	

CONSENT AGREEMENT

The Rhode Island Department of Business Regulation (“Department”), enters into this Consent Agreement with Alyssa Polofsky, (“Respondent”) to resolve the above-captioned matter pursuant to its authority under R.I. Gen. Laws § 42-35-9(d) and § 5-20.7-20.

It is hereby agreed by and between the Department and the Respondent that:

1. Respondent is a Certified Residential Real Estate Appraiser, holding License Number A00814, pursuant to R.I. Gen. Laws § 5-20.7-1, *et seq.*
2. The Real Estate Appraisers Board (“Board”) received a complaint against Respondent on January 17, 2017, regarding her appraisal of the property located at 28 First School Street (a/k/a 28 1st Street), Bristol, RI 02809 (“subject property”). The date of valuation listed on the appraisal was November 29, 2016.
3. Respondent and her attorney met with the Board on April 5, 2017, to answer questions raised during its investigation regarding the appraisal on the subject property.

4. Based upon its investigation and its informal meeting with Respondent, the Board found that there was probable cause to believe that the Appraisal did not conform to the Uniform Standards of Professional Appraisal Practice (“USPAP”) for the following reasons:

a) Respondent admitted that she did not perform the inspection of the subject property even though she signed the appraisal.

b) Respondent admitted that her mother, a retired but no longer licensed real estate appraiser who works in Respondent’s office, performed the inspection of the subject property.

c) Respondent stated that she made a mistake and this was the only time that she signed an appraisal when she did not personally inspect the property.

5. R.I. Gen. Laws § 5-20.7-20 provides that the Department has cause to initiate administrative proceedings to suspend or revoke an appraiser’s license if the licensee is found to have committed any of the following actions, including:

a) “Failing to meet the minimum qualifications established by this chapter.” R.I. Gen. Laws § 5-20.7-20(2).

b) “An act or omission involving dishonesty, fraud, or misrepresentation with the intent to benefit the certificate holder or another person or with the intent to substantially injure another, mislead or defraud another person.” R.I. Gen. Laws § 5-20.7-20(5).

6. R.I. Gen. Laws § 5-20.7-19 provides: “A state certified or licensed real estate appraiser must comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standard Board of the Appraisal Foundation.”

7. The Board's position is that Respondent's conduct relative to the appraisal of the subject property violated the following rules of USPAP:

a) The Conduct Section of the Ethics Rule, which provides, among other things, that an appraiser: "must not use or communicate a report that is known by the appraiser to be misleading or fraudulent"; and "must not perform an assignment in a grossly negligent manner."

b) Standards Rule 1-1(a), (b) and (c), which provide that in developing a real estate appraisal, an appraiser must:

(a) Be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

(b) Not commit a substantial error of omission or commission that significantly affects an appraisal; and

(c) Not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

c) Standards Rule 2-1(a), (b) & (c), which provide that each written or oral real property appraisal report must:

(a) Clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) Contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

(c) Clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.


d) Standards Rule 2-2(b)(viii), which provides that the content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: "state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained."

- e) Standards Rule 2-2(b)(x), which provides that the content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: when an opinion of highest and best use was developed by the appraiser, state that opinion.”
8. Respondent’s Certified Residential Appraiser license was previously disciplined in 2013 when she entered into a Consent Agreement with the Department and agreed to enroll in two continuing education classes on “Business Ethics and Practices” and on “Residential Market Analysis and Highest and Best Use.” Upon information and belief, Respondent fulfilled the terms of that Consent Agreement.
9. To effect a timely and amicable resolution of this matter without an administrative hearing, the parties agree as follows:
- a) Respondent agrees to a six-month suspension of her Certified Residential Appraiser License, to take immediate effect upon the signing of this Consent Agreement by all of the parties.
 - b) Respondent agrees to one-year probation period, to take immediate effect after the six-month suspension. Respondent shall submit to the Department a detailed log of every appraisal performed during the probation period. Respondent shall submit this log by email to the designated Department representative on the 1st of each month by 11:59 p.m. The log must contain the following four columns: (1) the date of the report; (2) the full address of the property appraised; (3) the type of property and form type; and (4) a description of the work performed. Upon the Board’s request, Respondent shall produce the full report file for any appraisal conducted during the probation period.


10. By agreeing to enter into this Consent Agreement, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Acts, R.I. Gen. Laws § 42-35-1, et seq.


11. If Respondent fails to abide by the requirements of this Consent Agreement, the Department may initiate further administrative proceedings against the Respondent.

For the Department:


William DeLuca
Real Estate Administrator
Date: 7/10/17

For the Respondent:


Alyssa Polofsky
Respondent
Date: 7/13/17


Jeremiah C. Lynch, III, Esq. (Bar No.)
Counsel for Respondent
Date: 6/30/17

CERTIFICATION

I hereby certify on this 10 day of July 2017, that a copy of the within Consent Agreement was sent by first class mail, postage prepaid, to:

Alyssa M. Polofsky 1390 Fish Rd Tiverton, RI 02878	Jeremiah C. Lynch, III, Esq. Moore, Virgadamo & Lynch, Ltd. 97 John Clarke Road Middletown, RI 02842
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AND BY E-MAIL TO:

1. Jeremiah C. Lynch, III, Esq., jlynch@mvlaw.com
2. Maria D'Alessandro, Esq., DBR Deputy Director, Securities, Commercial Licensing, Gaming & Athletics
3. Donna Costantino, DBR Associate Director Commercial Licensing, Gaming & Athletics
4. William DeLuca, DBR Real Estate Administrator
5. Deanna Daniels, DBR Systems Analyst
6. Amy C. Stewart, Esq., DBR Senior Legal Counsel