

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

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**IN THE MATTER OF:**

**SUSAN ROWLES,**

**RESPONDENT.**

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**DBR No.: 09-L-0053**

**SECOND AMENDED CONSENT ORDER**

The Department of Business Regulation (“Department”) and Susan Rowles (“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 the Respondent arising out of an unsuccessful 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 a real estate broker, and was affiliated with Prudential Gammons Realty, LLC.

3. On or about October 22, 2007, the Complainant executed a Purchase and Sales Agreement for the subject property, which named the Respondent 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. Payment was made in the form of checks made payable to Prudential Gammons Realty in accordance with the Agreement.

4. The Complainant alleges that, 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 Respondent was notified in writing by the Complainant's agent via facsimile that the Complainant was no longer interested in purchasing the subject property, and that he was requesting the return of his deposit.

6. The Respondent had knowledge on or before January 16, 2008 that the Seller of the subject property was refusing to release and refund the deposit monies to the Complainant and further knew that, the Complainant had been named as a Defendant in a civil action filed in the Rhode Island Superior Court for breach of contract, and that the ownership of said deposit monies was in dispute.

7. 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*" 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, those monies to be held in trust by the General Treasurer until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties.

8. Section 19(C)(2) of the Department of Business Regulation Commercial Licensing Regulation 11 "*Real Estate Brokers and Salespersons*" provides that a licensee must inform the parties to a real estate transaction in writing of the statutory requirements regarding disputed deposits.

9. The disputed deposit was not transmitted to the General Treasurer within the proscribed time period, and the parties were not notified of the statutory requirements regarding disputed deposits in violation of the within cited laws and regulations while the Respondent was affiliated with Prudential Gammons Realty.

10. At the time of the Respondent's termination of her affiliation with Prudential Gammons Realty, the funds in dispute were still being held in the escrow account for that agency.

11. On September 16, 2009, the Department received evidence that the deposit monies in dispute had been transmitted by Prudential Gammons Realty to the Office of the General Treasurer in the form of an Escrow Deposit Transmittal Form and copy of a check in the amount of \$2,500.00. Those documents are attached hereto and marked as Exhibits 1 and 2, respectively.


12. In an effort to effect a timely and amicable resolution of the issues raised in this Consent Agreement without an administrative hearing and allow Respondent to maintain her license in good-standing, Respondent agrees to pay FIVE HUNDRED DOLLARS (\$500.00) to the Rhode Island Office of the General Treasurer.

13. By agreeing to resolve this matter through the execution of this Consent Order, Respondent voluntarily waives her right to the hearing process, voluntarily waives her right to appeal to Superior Court, and agrees to take all necessary action as delineated in this Consent Order to maintain her license in good-standing.


14. Respondent hereby acknowledges and agrees that failure to abide by any of the requirements of this Consent Order 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.

**THE DEPARTMENT AND RESPONDENT HEREBY CONSENT AND AGREE TO THE FOREGOING AS TO FORM AND SUBSTANCE:**

Department of Business Regulation:

  
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Ellen R. Balasco, Esq.  
Deputy Chief of Legal Services


Respondent:

  
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Susan Rowles  
Williams & Stuart Real Estate  
870 Oaklawn Avenue  
Cranston, Rhode Island 02920

Date: 10/15/09

Date: 10/13/09

Recommended by:


  
Catherine R. Warren, Esq.  
Hearing Officer

Date: 10/16/09

**ORDER**

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT  
 REJECT  
 MODIFY

  
A. Michael Marques  
Director

Date: 10-19-2009

**ENTERED as Administrative Order No. 09-235 on the 19<sup>th</sup> day of October, 2009.**

**THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING HER RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, REFERRAL MAY BE MADE TO THE RHODE ISLAND ATTORNEY GENERAL FOR FURTHER PROSECUTION.**