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SEP 16 2013

BUREAU OF REAL ESTATE

By Norma Simms

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6 BEFORE THE BUREAU OF REAL ESTATE

7 STATE OF CALIFORNIA

8 * * *

9	In the Matter of the Accusation of)	No. H-02833 FR
)	
10	DAN THOMAS SHANYFELT and)	<u>A C C U S A T I O N</u>
	SETH ELLIOT JOHNSON,)	
11)	
	Respondents.)	
12)	

13 The Complainant, Brenda Smith, a Deputy Real Estate
14 Commissioner of the State of California, for cause of Accusation
15 against DAN THOMAS SHANYFELT and SETH ELLIOT JOHNSON
16 (collectively "Respondents"), is informed and alleges as
17 follows:

18 1.

19 The Complainant, Brenda Smith, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation
21 in her official capacity.

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2.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code, "Code").

3.

From August 18, 2005, through the present, Respondent DAN THOMAS SHANYFELT has been licensed by the Bureau of Real Estate ("Bureau") as a real estate broker, License ID 01388129.

4.

From April 7, 2006, through the present, Respondent SETH ELLIOT JOHNSON has been licensed by the Bureau as a real estate broker, License ID 01469072.

FIRST CAUSE OF ACCUSATION

(Fraud in a Civil Action)

5.

Code Section 10177.5 states:

"When a final judgment is obtained in a civil action against any real estate licensee upon grounds of fraud, misrepresentation, or deceit with reference to any transaction for which a license is required under this division, the commissioner may, after hearing in accordance with the provision of this part relating to hearings, suspend or revoke the license of such real estate licensee."

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1 6.

2 On or about September 23, 2013, in a civil action
3 entitled *Debra L. Twisselman v. Dan Shanyfelt, et al.*, before
4 the Superior Court of the State of California, County of Kern,
5 Metropolitan Division, case no. CV-265120, a final judgment on
6 special verdicts was entered against Respondents for
7 \$155,008.00, consisting of compensatory damages in the amount of
8 \$86,116.00 plus punitive damages in the amount of \$68,892. On
9 September 22, 2010, a jury of 12 persons rendered verdicts
10 against Respondents based on intentional misrepresentation and
11 fraud with reference to a transaction for which a real estate
12 license is required.

13 7.

14 Respondents subsequently filed a motion for judgment
15 notwithstanding verdict which was dropped due to a settlement
16 with the plaintiff. An acknowledgement of satisfaction of full
17 judgment was filed by the plaintiff on December 22, 2010.

18 8.

19 The facts set forth in Paragraph 6, above, constitute
20 cause under Code section 10177.5 for suspension or revocation of
21 all licenses and license rights of Respondents under the Real
22 Estate Law.

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Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent DAN THOMAS SHANYFELT and SETH ELLIOT JOHNSON under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at Fresno, California
this 11 day of September, 2013.


BRENDA SMITH
Deputy Real Estate Commissioner

cc: Brenda Smith
Sacto.