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FILED

JAN 20 2015

BUREAU OF REAL ESTATE

By S. Black

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

11 In the Matter of the Accusation of)
12 THOMAS KENNETH MOULDING,) H- 2890 FR
13 Respondent.)

ORDER VACATING DEFAULT DECISION AND ORDER

15 On December 24, 2014, a Decision was rendered revoking the real estate broker
16 license of Respondent, THOMAS KENNETH MOULDING, effective January 21, 2015.

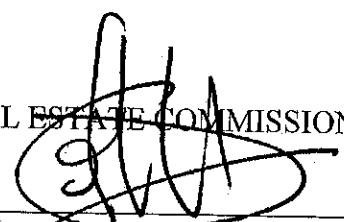
17 On January 9, 2015, good cause was presented to vacate the Decision of
18 December 24, 2014, and to have the matter remanded to the Office of Administrative Hearings
19 as a contested matter.

20 NOW, THEREFORE, IT IS ORDERED that the Decision of December 24,
21 2014, is vacated and that the Matter of the Accusation filed on June 11, 2014, is remanded to
22 the Office of Administrative Hearings.

23 This Order shall be effective immediately.

24 DATED: January 20, 2015.

25 REAL ESTATE COMMISSIONER



26 By: Jeffrey Mason
27 Chief Deputy Commissioner

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DEC 31 2014

BUREAU OF REAL ESTATE

By S. Blech

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

<p>In the Matter of the Accusation of</p> <p style="text-align: center;">THOMAS KENNETH MOULDING,</p> <p style="text-align: center;">Respondent.</p>	}	<p>No. H-2890 FR</p>
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DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on October 30, 2014, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license and/or license rights on grounds of violation of Sections 10176(a) (substantial misrepresentation), 10176(g) (written compensation agreement requirement), 10176(i) (fraud or dishonest dealing), and 10177(d) (willful disregard of Real Estate Law) and/or 10177(g) (negligence/incompetence) of the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code"), and Section 2079 (competent and diligent visual inspection requirement) of the California Civil Code.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1.

On June 6, 2014, Brenda Smith made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Bureau on June 11, 2014.

On October 30, 2014, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondent is presently licensed and/or has license rights under the Code as a real estate broker.

3.

Respondent, while doing business as Flat Rate Realty, operated the internet site Flatraterealtyinc.com. That website offered Respondent's "Premier Rebate Plan", in which Respondent offered a 50% commission rebate to any home buyer who did not need Respondent's help finding a home to buy. Respondent's role in the purchase process would be to prepare the offer and negotiate the purchase with the seller. Prior to June 13, 2012, Jose B. contacted Respondent about the Premier Rebate Plan after viewing the Flatraterealtyinc.com website. During that conversation, Respondent confirmed to Jose B. that Jose B. was eligible for the Premier Rebate Plan. No written agreement was ever entered into between Jose B. and Respondent setting out the terms of the rebate program or the specific services Respondent would perform for Jose B.. On or about June 13, 2012, Jose B. found a house to purchase located at 718 Manzanita, Sunnyvale, California. Respondent prepared a purchase offer for the Manzanita property on behalf of Jose B. Thereafter, Jose B.'s \$399,950 purchase offer was accepted by the buyer. Respondent failed to provide all parties to the transaction a written disclosure of the commission rebate. As part of the purchase process, Respondent failed to conduct a competent and diligent visual inspection of the Manzanita property. On or about July 31, 2012, the sale of the Manzanita property to Jose B. closed and Respondent received a commission of \$9,998.75. On or after July 31, 2012, Jose B. received a \$3,999.50 payment from Respondent representing Jose B.'s commission rebate. However, that amount represented only 40% of Respondent's commission for the Manzanita property transaction instead of the 50% rebate that Respondent promised to Jose B., resulting in a shortage of \$999.88 of the \$4999.38 Jose B. should have been paid under the terms of Respondent's Premier Rebate Plan. Respondent rejected Jose B.'s request for payment of the remaining \$999.88.

DETERMINATION OF ISSUES

1.

Cause for disciplinary action against Respondent exists with reference to acts set for the in Paragraph 3, above, pursuant to 10176(a), 10176(g), 10176(i), and 10177(d) and/or 10177(g) of the Code, and Section 2079 of the California Civil Code.

2.

The standard of proof applied was clear and convincing proof to a reasonable certainty.


ORDER

All licenses and licensing rights of Respondent THOMAS KENNETH MOULDING under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on JAN 21 2015 ..

DATED: DEC 24 2014

REAL ESTATE COMMISSIONER


By: Jeffrey Mason
Chief Deputy Commissioner

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4 Telephone: (916) 263-8670

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OCT 30 2014

BUREAU OF REAL ESTATE

By K. Contreras

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 THOMAS KENNETH MOULDING,)

13 Respondent.)
14 _____)

H-2890 FR

DEFAULT ORDER

15
16 Respondent, THOMAS KENNETH MOULDING, having failed to file a Notice
17 of Defense within the time required by Section 11506 of the Government Code, is now in
18 default. It is, therefore, ordered that a default be entered on the record in this matter.

19 IT IS SO ORDERED OCT 29 2014

21 REAL ESTATE COMMISSIONER

22
23 By: Joe M. Carrillo
24 JOSEPH M. CARRILLO
25 Northern Regional Manager
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