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6
7

FILED

AUG 11 2016

BUREAU OF REAL ESTATE

By L. Frost

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA
10

11 In the Matter of the Accusation of)

12 JACQUE' AND COMPANY, INC.,)

13 MANUEL CHAVEZ, JR, and)

14 ESTHELA MARTINEZ SALAS,)

Respondents.)

CalBRE NO. H-2983 FR

15 ORDER VACATING DEFAULT DECISION AND ORDER
16

17 On July 22, 2016, a Decision was rendered revoking the corporate real estate
18 broker license of Respondent, JACQUE' AND COMPANY, INC., the real estate broker license
19 of Respondent, MANUEL CHAVEZ, JR., and the real estate broker license of Respondent,
20 ESTHELA MARINEZ SALAS, effective August 15 2016.

21 On July 29, 2016, good cause was presented to vacate the Decision of
22 July 22, 2016, and to have the matter remanded to the Office of Administrative Hearings as a
23 contested matter.

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27 ///

1 NOW, THEREFORE, IT IS ORDERED that the Decision of July 22, 2016, is
2 vacated and that the Matter of the Accusation filed on January 27, 2016, is remanded to the
3 Office of Administrative Hearings.

4 This Order shall be effective immediately.

5 DATED: 8/11/16

6 WAYNE S. BELL
7 REAL ESTATE COMMISSIONER

8
9 By: Dan Sandri
10 DAN SANDRI, Assistant Commissioner

FILED

JUL 25 2016

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JACQUE' AND COMPANY, INC.

MANUEL CHAVEZ, JR. and,

ESTHELA MARTINEZ SALAS,

Respondents.

No. H-2983 FR

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 May 3, 2016, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate licenses on grounds of the violation of Real Estate Regulations and Law.

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 January 20, 2016, Brenda Smith made the Accusation in her official capacity as a Supervising Special Investigator 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 January 27, 2016.

On May 3, 2016, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered herein.

2

From and since July 22, 2014, JAC has and is presently licensed and/or has license rights by the Bureau of Real Estate (Bureau), all times mentioned hereinunder the California Business and Professions Code (Code) as a corporate real estate broker.

3

At all times herein mentioned, CHAVEZ has been licensed by the Bureau as a real estate broker and was the Designated Officer of JAC from July 22, 2014, until July 21, 2015.

4

At all times herein mentioned, SALAS has been licensed by the Bureau as a real estate broker and was the Designated Officer of JAC from July 21, 2015, until the present.

5

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate broker within the State of California within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation. Respondents leased or rented or offered to lease or rent, or places for rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from tenants.

6

From July 22, 2014, until July 21, 2015, CHAVEZ, was the designated broker-officer of JAC. From July 21, 2015, until the present, SALAS was and is the designated broker-officer of JAC, CHAVEZ, and SALAS were responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of JAC for which a real estate license is required to ensure the compliance of the corporation with the Real Estate law and the Regulations.

Beginning on October 20, 2014, and continuing intermittently through July 13, 2015, an audit was conducted of JAC's accounting and other records, where the auditor examined records for the period of April 30, 2014, through November 30, 2014 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, JAC accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by JAC, at Wells Fargo Bank, 201 E. Yosemite Avenue, Madera, CA 93638, as described below:

ACCOUNT #1	
Account No.:	XXXXXXX7364
Entitled:	Jacque and Company, Inc.

ACCOUNT #2	
Account No.:	XXXXXXX6733
Entitled:	Jacque and Company, Inc.

and thereafter from time to time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) JAC failed to designate Account #1 and Account #2 as a trust accounts as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) JAC allowed a person who was not licensed and did not have a surety bond to be a signatory on the trust account, in violation of Section 2834 of the Regulations;

- (c) During an accountability performed on Account #1, and as of November 30, 2014, a shortage of \$5,128.73 was revealed, in violation of Section 10145 of the Code;
- (d) JAC failed to obtain written permission from owners of trust funds in Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (e) JAC failed to set up Account #1 as an interest bearing account for a specified beneficiary and allowed interest to inure to the benefit of JAC in violation of Section 10145(d) of the Code and
- (f) JAC failed to perform monthly reconciliations of the separate beneficiary records and control records for Account #1, as required by Section 2831.2 of the Regulations.

10

At all times mentioned herein, Jacqueline Marie Aviles (Aviles) as employed by Respondents to conduct property management activities.

11

A no time mentioned herein, was Aviles licensed by the Bureau as a real estate broker or real estate salesperson.

12

At all times mentioned herein, between June 5, 2014, and continuing up to at least January 15, 2016, Aviles represented that she was a Property Manager on her business cards and on the JAC website indicated that she was a Property Manager for Don Floyd Realty for the previous eight (8) years.

13

At all times mentioned herein, between June 5, 2014, and continuing up to at least January 15, 2016, Respondents employed and/or compensated Aviles for performing the acts set out above which require a real estate license pursuant to Section 10131(b) of the Code (property management activities).

14

From July 22, 2014, until July 21, 2015, CHAVEZ, and from July 21, 2015, until the present, SALAS, were responsible as the supervising designated broker/officer for JAC, for the supervision and control of the activities conducted on behalf of JAC'S business by its employees to ensure its compliance with the Real Estate Law and Regulations. CHAVEZ and SALAS failed to exercise reasonable supervision and control over the property management

activities of JAC. In particular, CHAVEZ and SALAS, each permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

DETERMINATION OF ISSUES

1

The acts and/or omissions of JAC and CHAVEZ as alleged above violate Section 2831.2, 2832, 2832.1 and 2834 of the Regulations and Sections 10137 and 10145 of the Code and are cause for disciplinary action against JAC and CHAVEZ pursuant to Sections 10177 (d) and 10177(g) of the Code.

2

The acts and/or omissions of CHAVEZ and SALAS as alleged above violate Section 2725 of the Regulations and Section 10159.2 of the Code and are cause for disciplinary action against JAC and CHAVEZ pursuant to Sections 10177(d), 10177(g), and 10177(h) of the Code.

3

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

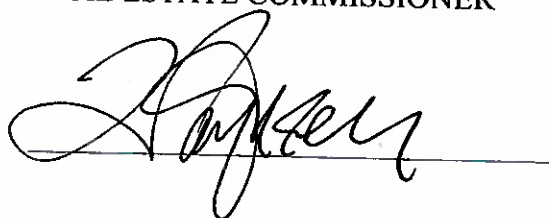
ORDER

All licenses and licensing rights of Respondents JACQUE' AND COMPANY INC., MANUEL CHAVEZ, JR., and ESTHELA MARTINEZ SALAS, 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 AUG 15 2016.

DATED: 7/22/2016.

WAYNE S. BELL
REAL ESTATE COMMISSIONER



FILED

Bureau of Real Estate
1651 Exposition, Blvd.
Sacramento, CA, 95815

(916) 263-8679

MAY 03 2016

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)

CalBRE NO. *H-2983 FR*

JACQUE' AND COMPANY, INC.,)

DEFAULT ORDER

MANUEL CHAVEZ, JR, and)

ESTHELA MARTINEZ SALAS,)

Respondents.)

Respondents JACQUE' AND COMPANY, INC., MANUEL CHAVEZ, JR,
and ESTHELA MARTINEZ SALAS, having failed to file a Notice of Defense within the
time required by Section 11506 of the Government Code, are now in default. It is, therefore,
ordered that defaults be entered on the record in this matter.

IT IS SO ORDERED MAY 03 2016

WAYNE BELL
REAL ESTATE COMMISSIONER

By:

Joseph M. Carrillo
JOSEPH M. CARRILLO
Regional Manager