

managed certain real properties in California. During the course of the activities described above, Respondent received and disbursed funds in trust on behalf of others.

V

Beginning in November of 2002, the Department conducted an audit of the above business activities of Respondent for the time period of January 1, 2002 through August 31, 2002.

VI

Within the last three years, Respondent deposited the above trust funds into a checking account at Bank of the West in Sacramento, California, bearing account number 252-003017, in the name of "Wristen Property Management Trust" (hereafter referred to as "Trust Account 1").

VII

In connection with the collection and disbursement of trust funds, Respondent failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code, in such a manner that as of July 31, 2002, there was a trust fund shortage in the approximate sum of \$14,920.60 in Trust Account 1.

VIII

Respondent failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Account 1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in conformance with Section 2832.1 of the Regulations.

IX

In connection with the receipt and disbursement of trust funds as above alleged, and as set forth in Audit No. SC-020037, dated November 12, 2002, and accompanying working papers and exhibits, Respondent:

- (a) Failed to maintain a written control record of all trust funds received and disbursed containing all information required by Section 2831 of the Regulations, including but not limited to recordation of all deposits, recordation of dates of receipt, and recordation of accurate dates of deposit of trust funds;
- (b) Failed to reconcile the balance of separate beneficiary or transaction records with the control records of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations as required by Section 2831.2 of the Regulations for Trust Account 1; and,

- (c) Permitted Teresa Vasquez, a person who neither held a California real estate license nor was bonded, to be a signatory on Trust Account 1 in violation of Section 2834 of the Regulations.

DETERMINATION OF ISSUES

I

The acts and/or omissions of Respondent as alleged above constitute grounds for the suspension or revocation of Respondent's license rights under the following provisions:

- (a) As alleged in Paragraph VII, under Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
- (b) As alleged in Paragraph VIII, under Section 10145 of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;
- (c) As alleged in Paragraph IX(a), under Section 10145 of the Code and Section 2831 of the Regulations in conjunction with Section 10177(d) of the Code;
- (d) As alleged in Paragraph IX(b), under Section 10145 of the Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code; and,
- (e) As alleged in Paragraph IX(c), under Section 2834 of the Regulations in conjunction with 10177(d) of the Code.

II

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

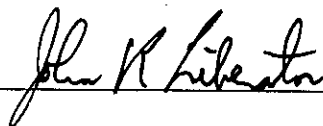
ORDER

All licenses and licensing rights of CYNTHIA LEE WRISTEN, 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 May 5, 2004.

DATED: March 25, 2004

JOHN R. LIBERATOR
Acting Real Estate Commissioner



1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789

FILED
MAR 17 2004

DEPARTMENT OF REAL ESTATE

Shelly Ely

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 CYNTHIA LEE WRISTEN,)

13 Respondent.)

NO. H-3830 SAC

DEFAULT ORDER

14
15 Respondent, CYNTHIA LEE WRISTEN, having failed to file
16 a Notice of Defense within the time required by Section 11506 of
17 the Government Code, is now in default. It is, therefore,
18 ordered that a default be entered on the record in this matter.

19 IT IS SO ORDERED *January 26*, 2004.

20 JOHN R. LIBERATOR
21 Chief Deputy Commissioner

22
23 By:

Steven J. Ellis
24 STEVEN J. ELLIS
25 Regional Manager
26
27

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED
MAY 31 2003
DEPARTMENT OF REAL ESTATE
Shelly E. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H- 3830 SAC
13 CYNTHIA LEE WRISTEN,)
14) ACCUSATION
15)
16)
17)
18)
19)
20) Respondents.)

21 The Complainant, CHARLES W. KOENIG, a Deputy Real
22 Estate Commissioner of the State of California, for Cause of
23 Accusation against CYNTHIA LEE WRISTEN doing business under the
24 fictitious business name of C. L. WRISTEN REAL ESTATE MANAGEMENT
25 is informed and alleges as follows:

26 I

27 Respondent CYNTHIA LEE WRISTEN (hereafter referred to
as "Respondent") is presently licensed and/or has license rights
under the Real Estate Law, Part 1 of Division 4 of the California
Business and Professions Code (hereafter the "Code").

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II

The Complainant, CHARLES W. KOENIG, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

III

At all times herein mentioned, Respondent was and is licensed by the Department as a real estate broker.

IV

Within the last three years, Respondent engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, and leased or rented, offered to lease or rent, solicited prospective tenants for, collected rents on, and/or managed certain real properties in California. During the course of the activities described above, Respondent received and disbursed funds in trust on behalf of others.

V

Beginning in November of 2002, the Department conducted an audit of the above business activities of Respondent for the time period of January 1, 2002 through August 31, 2002.

VI

Within the last three years, Respondent deposited the above trust funds into a checking account at Bank of the West in Sacramento, California, bearing account number 252-003017, in the name of "Wristen Property Management Trust" (hereafter referred to as "Trust Account 1").

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VII

In connection with the collection and disbursement of trust funds, Respondent failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code, in such a manner that as of July 31, 2002, there was a trust fund shortage in the approximate sum of \$14,920.60 in Trust Account 1.

VIII

Respondent failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Account 1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in conformance with Section 2832.1 of the Regulations.

IX

In connection with the receipt and disbursement of trust funds as above alleged, and as set forth in Audit No. SC-020037, dated November 12, 2002, and accompanying working papers and exhibits, Respondent:

- (a) Failed to maintain a written control record of all trust funds received and disbursed containing all information required by Section 2831 of the Regulations, including but not limited to recordation of all deposits, recordation of dates of receipt, and recordation of accurate dates of deposit of trust funds;

///

1 (b) Failed to reconcile the balance of separate
2 beneficiary or transaction records with the
3 control records of trust funds received and
4 disbursed at least once a month, and/or failed
5 to maintain a record of such reconciliations
6 as required by Section 2831.2 of the Regulations
7 for Trust Account 1; and,

8 (c) Permitted Teresa Vasquez, a person who neither held
9 a California real estate license nor was bonded,¹ to
10 be a signatory on Trust Account 1 in violation of
11 Section 2834 of the Regulations.

12 X

13 The acts and/or omissions of Respondent as alleged
14 above constitute grounds for disciplinary action under the
15 following provisions:

16 (a) As alleged in Paragraph VII, under Section
17 10145 of the Code in conjunction with Section
18 10177(d) of the Code;

19 (b) As alleged in Paragraph VIII, under Section 10145
20 of the Code and Section 2832.1 of the Regulations
21 in conjunction with Section 10177(d) of the Code.

22 (c) As alleged in Paragraph IX(a), under Section
23 10145 of the Code and Section 2831 of the
24 Regulations in conjunction with Section 10177(d)
25 of the Code;

26 (d) As alleged in Paragraph IX(b), under Section 10145
27 of the Code and Section 2831.2 of the Regulations

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in conjunction with Section 10177(d) of the Code;
and,

(e) As alleged in Paragraph IX(c), under Section 2834
of the Regulations in conjunction with 10177(d) of
the Code.

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 the license and all license rights of Respondent under
the Real Estate Law (Part 1 of Division 4 of the Business and
Professions Code), and for such other and further relief as may
be proper under other provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 7th day of April, 2003