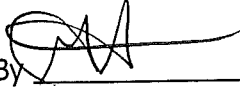


FILED

July 30, 2012

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DEPARTMENT OF REAL ESTATE

By  _____

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H- 4390 SD
13 DEL MAR REALTY ASSOCIATES,)
14 DENNIS EDWARD PETRAS and)
15 LANA LEE,) ACCUSATION
16 Respondents.)

16 The Complainant, VERONICA KILPATRICK, a Deputy Real Estate
17 Commissioner of the State of California, for Accusation against Respondent DEL MAR
18 REALTY ASSOCIATES (DMRA), DENNIS EDWARD PETRAS (PETRAS) and LANA LEE
19 (LEE), is informed and alleges as follows:

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21 The Complainant makes this Accusation against Respondents in her official
22 capacity.

23 2

24 DMRA is presently licensed and/or has license rights under the Real Estate Law,
25 Part 1 of Division 4 of the California Business and Professions Code (the Code) as a corporate
26 real estate broker.

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At all times mentioned PETRAS was licensed by the Department as a real estate broker.

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At all times mentioned LEE was licensed by the Department as a real estate salesperson and until November 29, 2009, was under the real estate license of DMRA.

5

At all times herein mentioned, PETRAS was licensed by the Department as the designated broker/officer of DMRA. As the designated broker/officer, PETRAS was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of DMRA for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

6

At all times mentioned, DMRA, engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) including the operation and conduct of a residential resale brokerage wherein Respondents bought, sold, or offered to buy or sell, solicited or obtained listings of, and negotiated the purchase, sale or exchange of real property or business opportunities, all for or in expectation of compensation and acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation.

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1 FIRST CAUSE OF ACTION

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3 Beginning on March 1, 2009, and continuing intermittently through
4 February 29, 2012, an audit was conducted at DMRA's main office located on Camino Del Mar,
5 in Del Mar, California, where the auditor examined records for the period of March 1, 2009,
6 through February 29, 2012 (the audit period).

7 8

8 While acting as a real estate broker as described in Paragraph 6, above, and within
9 the audit period, DMRA accepted or received funds in trust (trust funds) from or on behalf of
10 property owners, tenants and others in connection with the residential property resale activities
11 and deposited or caused to be deposited those funds into bank accounts maintained by DMRA,
12 including:

- 13 1) California Bank and Trust, 2775 Via del la Valle, Del Mar, CA 92014,
14 Account No. XXXXXX2801, entitled "Sally Shapiro Broker Trust
15 Account", signatory: Sally Shapiro, REB, (Trust Account #1);
16 2) Chase Bank, 2770 Via de la Valle, Del Mar, CA 92014, Account No.
17 XXXXXX2702, entitled "Bernard Pistilli or Sally Shapiro", signatories:
18 Bernard Pistilli, unlicensed (u)" and Sally Shapiro, REB. (Trust Account
19 #2);
20 3) Wells Fargo Bank, 2770 Via de la Valle, Del Mar, CA 92014, Account No.
21 XXXXXX5075, entitled "Frank Dassler or Sabine Dassler or Sally Shipiro",
22 signatories: Frank Dassler (u), Sabine Dassler (u) and Sally Shapiro, REB,
23 (Trust Account #3);
24 4) Wells Fargo Bank, P. O. Box 6995, Portland, OR 97228-6995, Account No.
25 XXXXXX3272, entitled "Thomas E. Varga DBA Tom Barga Broker Trust",
26 signatory: Thomas Barga, REB, (Trust Account #4) and
27 5) Union Bank, 1435 Caminito Del Mar, Del Mar, CA 92014, Account No.

1 XXXXXX2329, entitled "Elizabeth A. Lasker, Lasker Broker Trust
2 Account", signatory: Elizabeth A. Lasker (REB), (Trust Account #5), and
3 thereafter from time to time made disbursements of said trust funds.

4 9

5 In the course of the activities described in Paragraph 6, in connection with the
6 collection and disbursement of trust funds, DMRA:

- 7 (a) Failed to properly designate Trust Account #1, Trust Account #2, Trust
8 Account #3, Trust Account #4 and Trust Account #5 as a trust account in
9 the name of the corporate broker, as required by Section 2832 of Chapter 6,
10 Title 10, California Code of Regulations (Regulations);
- 11 (b) Allowed unlicensed unbounded individuals to withdraw trust funds as
12 follows:
13 Trust Account #2-Bernard Pistilli;
14 Trust Account #3-Frank Dassler and Sabine Dassler;
15 in violation of Section 2834 of the Regulations;
- 16 (c) Mixed broker funds with trust funds in Trust Account #1 in violation of
17 Section 2835 of the Regulations and Section 10176(e) of the Code;
- 18 (d) An accountability was performed on Trust Account #1 and as of
19 February 29, 2012, an overage of \$3,025.79 was revealed and on December
20 30, 2011, shortage of \$1,876.60 was revealed in violation of Section 10145
21 of the Code;
- 22 (e) An accountability was performed on Trust Account #4 and as of
23 February 29, 2012, an overage of \$204.67 was revealed in violation of
24 Section 10145 of the Code;
- 25 (f) An accountability was performed on Trust Account #5 and as of
26 February 29, 2012, an overage of \$14.16 was revealed in violation of
27 Section 10145 of the Code;

- 1 (g) Failed to properly maintain control records for Trust Account #3, Trust
2 Account #4 and Trust Account #5 as required by Section 2831 of the
3 Regulations;
- 4 (h) Failed to properly maintain separate beneficiary records for Trust Account
5 #1, Trust Account #4 and Trust Account #5 as required by Section 2831.1 of
6 the Regulations;
- 7 (i) Failed to reconcile control records with separate beneficiary records for
8 Trust Account #1 and Trust Account #5 as required by Section 2831.2 of the
9 Regulations;
- 10 (j) Failed to disclose its licensed identification number on its website
11 “delmarrealtysociates.com” as required by Section 2773 of the
12 Regulations; and
- 13 (k) Failed to maintain adequate Broker-Salesperson Relationship Agreements
14 with Sally Shapiro, Elizabeth Ann Lasker and Thomas Emery Varga as
15 required by Section 2726 of the Regulations.

16 10

17 The acts and/or omissions of DMRA as alleged above violate Sections 2627 (Broker-
18 Salesperson Relationship Agreement), 2773 (Disclose License ID in Advertising), 2831 (Control
19 Records), 2831.1 (Separate Beneficiary Records), 2831.2 (Monthly Reconciliations), 2832 (Trust
20 Fund Designation), 2834 (Trust Account Signatories) and 2835 (Commingling) of the
21 Regulations and of Sections 10145 (Trust Fund Handling) and 10176(e) (Commingling and are
22 grounds for discipline under Section 10176(e), 10177(d) (Willful Disregard/Violation of Real
23 Estate Law) and 10177(g) (Negligence/Incompetence Real Estate Licensee) of the Code.

24 SECOND CAUSE OF ACTION

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26 Complainant refers to Paragraphs 1 through 10, above, and incorporates them herein by
27 reference.

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At no time within the last three years did the Department issue a real estate broker license to LEE.

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Within the last three years before the filing of this Accusation, LEE engaged in the business of, acted in the capacity of, advertised the capacity of the operation and conduct of a property management business wherein she leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, including but not limited to that certain real property known as 3055 Mercer Lane, San Diego, California, all for or in expectation of compensation.

14

LEE engaged in such property management, while on leave from DMRA, which advised her to not conduct any licensed activity while on leave and she did so without the knowledge of DMRA.

15

The acts or omissions alleged in Paragraphs 12 through 14, above, constitute a violation of Sections 10130 (Licensed Activity) of the Code and are cause for the suspension or revocation of the licenses and license rights of Respondent LEE under Sections 10130, 10177(d) and 10177(g) of the Code.

THIRD CAUSE OF ACTION

16

Complainant refers to Paragraphs 1 through 15, above, and incorporates the same, herein, by reference.

17

At all times herein above mentioned, PETRAS was responsible, as the designated broker/officer of DMRA, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees to ensure its compliance with the Real Estate Law

1 and the Regulations. PETRAS failed to exercise reasonable supervision and control over the
2 property mortgage loan brokering activities of DMRA. In particular, PETRAS permitted, ratified
3 and/or caused the conduct described in the First Cause of Action, above, to occur, and failed to
4 take reasonable steps, including but not limited to the handling of trust funds, supervision of
5 employees, and the implementation of policies, rules, procedures, and systems to ensure the
6 compliance of the corporation with the Real Estate Law and the Regulations.

7 18

8 The above acts and/or omissions of PETRAS violate Section 10159.2 (Broker
9 Supervision) of the Code and Section 2725 (Broker Supervision) of the Regulations and
10 constitute grounds for disciplinary action under Section 10177(h) (Designated Officer
11 Supervision) of the Code.

12 19

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

17 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
18 Accusation and that upon proof thereof a decision be rendered imposing disciplinary action
19 against all licenses and license rights of Respondents under the Real Estate
20 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
21 relief as may be proper under other provisions of law.

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24 
25 VERONICA KILPATRICK
26 Deputy Real Estate Commissioner

27 Dated at San Diego, California,
this 23 day of July, 2012.