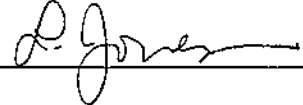


FILED

December 7, 2012

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

By 

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 RONALD E. RUSSELL,)
14 Respondent.)

No. H-5922 SAC
ACCUSATION

15 The Complainant, TRICIA SOMMERS, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation against RONALD E.
17 RUSSELL (Respondent), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

19 1

20 The Complainant, TRICIA SOMMERS, a Deputy Real Estate Commissioner of
21 the State of California, makes this Accusation in his official capacity.

22 2

23 At all times mentioned, Respondent was and now is licensed and/or has license
24 rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code)
25 (Code).

26 ///

27 ///

1 3

2 At all times mentioned, Respondent was and is licensed by the Department of
3 Real Estate (Department) as a real estate broker.

4 4

5 At no time mentioned was R Russell Properties LLC (RRP) licensed by the
6 Department in any capacity. Respondent is the Manager and Chief Executive Officer of RRP.

7 5

8 At all times mentioned, Respondent engaged in the business of, acted in the
9 capacity of, advertised or assumed to act as a real estate licensee in the State of California within
10 the meaning of Section 10131 of the Code.

11 6

12 On or about September 16, 2010, an audit was conducted of the records of
13 Respondent. The auditor herein examined the records for the period of January 1, 2009, through
14 September 30, 2010.

15 FIRST CAUSE OF ACTION

16 7

17 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by
18 this reference as if fully set forth herein.

19 8

20 Beginning on or about January 2010, in the course of activities described in
21 Paragraph 5, Respondent, on behalf of RRP, solicited Buyers for a rent-to-own program, finding
22 buyers suitable homes to lease under contract to purchase in the future. As further inducement to
23 enter the rent to own program, Respondent represented a money-back guarantee, "The deposit
24 paid is a tenant security deposit on a proposed rental property, for our Rent to Own Program and
25 is refundable at any time before you move-in to your selected property. Requests for a refund are
26 to be in writing and will be refunded within 10 business day after request."

27 ///

Between January 31, 2010, and July 3, 2010, the Buyers transferred an advance fee/deposit to Respondent for the rent-to-own program. The Buyers include, but are not limited to:

Buyer	Date	Advance Fee/Deposit
Susan Rae Best	2/14/10	\$2500
Marla N. Turner	4/28/10	\$2900
Jeffrey Byron Johnson	6/1/10	\$2900
Faiz Riza Awadan	5/25/10	\$2900
Karen J. Martin	5/28/10	\$2900
Alvin Hill	4/14/10	\$2900
Madiah A. Beard	2/2/10	\$2900
Tavin Collins	6/10/10	\$2900
Felma Julian	7/3/10	\$2900
Christina Cordova	3/10/10	\$2900

10

Respondent failed to find buyers a home under the rent-to-own program as promised.

11

Respondent failed to return the deposit to Buyers, as promised in the money-back guarantee.

12

The acts and/or omissions of Respondent described in the First Cause of Action, constitute violation of Sections 10176(a), 10176(b), 10176(c), 10176(i), 10177(g), and/or 10177(j) of the Code, and are cause for the suspension or revocation of Respondent's license and license rights.

SECOND CAUSE OF ACTION

13

Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated by this reference as if fully set forth herein.

In connection with the operation and conduct of the real estate activities described in Paragraph 5, Respondent engaged in the business of claiming, demanding, charging, receiving, collecting, or contracting for the collection of advance fees within the meaning of Sections 10026 and 10131.2 (advance fees) of the Code including but not limited to the Buyers described in Paragraph 9.

In connection with the collection and handling of said advance fees, Respondent:

(a) Failed to cause the advance fee contract and all materials used in obtaining the advance fee agreement to be submitted to the Department of Real Estate prior to use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California Code of Regulations (Regulations);

(b) Failed to immediately deliver said trust funds into a neutral escrow depository, or into a trust fund account in violation of Section 10146 of the Code; and

(c) Failed to furnish the principal borrower the verified accounting required by Section 10146 of the Code and Section 2972 of the Regulations.

The acts and/or omissions of Respondent described in the Second Cause of Action constitute violation of Section 10177(d) of the Code in conjunction with Sections 10085, and 10146 of the Code and Sections 2970 and 2972 of the Regulations, and are cause for the suspension or revocation of Respondent's license and license rights.

THIRD CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 16, inclusive, is incorporated by this reference as if fully set forth herein.

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In acting as a real estate broker, as described in Paragraph 5, Respondent accepted or received funds in trust (trust funds) from or on behalf of buyers and/or participants in the rent-to-own program.

The trust funds accepted or received by Respondent as described in Paragraph 18 were deposited or caused to be deposited by Respondent into trust accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Chase JP Morgan Chase Bank, N.A. 1950 Arden Way Sacramento, CA 95815
Account No.:	XXXXXX6252
Entitled:	R. Russell Properties LLC

ACCOUNT # 2	
Bank Name and Location:	Chase JP Morgan Chase Bank, N.A. 1950 Arden Way Sacramento, CA 95815
Account No.:	XXXXXX6245
Entitled:	Summer Hills Real Estate Services

ACCOUNT # 3	
Bank Name and Location:	Chase JP Morgan Chase Bank, N.A. 1950 Arden Way Sacramento, CA 95815
Account No.:	XXXXXX8083
Entitled:	Ron Russell Db: Summer Hills Real Estate Services

In connection with the receipt and disbursement of trust funds, Respondent:

(a) Failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of the Regulations;

(b) Failed to maintain a written control record of all trust funds received and disbursed, containing all information required by Section 2831 of the Regulations;

(c) Failed to maintain separate beneficiary or transaction records containing all information required by Section 2831.1 of the Regulations;

(d) Failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for each account as required by Section 2831.2 of the Regulations; and

(e) Failed to retain for three years, as required by Section 10148(a) of the Code, two-sided copies of cancelled checks from Account #1, #2, and #3, in connection with transactions for which a real estate license is required.

In the course of the activities described in Paragraph 5, Respondent:

(a) Failed to maintain a written control record of all trust funds received and not placed in broker's trust account containing all information required by Section 2831 of the Regulations; and

(b) Failed to notify the Department within the next business day that Respondent had closed its main office located at 2701 Cottage Way, Sacramento, as required by Section 2715 of the Regulations.

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The facts alleged in the Third Cause of Action are grounds for the suspension or revocation of Respondent's license and license rights under the following sections of the Code and Regulations:

(1) As to Paragraphs 20(a), under Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

(2) As to Paragraph 20(b), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations;

(3) As to Paragraph 20(c), under Section 10177(d) of the Code in conjunction with Section 2831.1 of the Regulations;

(4) As to Paragraph 20(d), under Section 10177(d) of the Code in conjunction with Section 2831.2 of the Regulations;

(5) As to Paragraph 20(e), under Section 10177(d) of the Code in conjunction with Section 10148 of the Code;

(6) As to Paragraph 21(a), under Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations; and

(7) As to Paragraphs 21(b), under Section 10177(d) of the Code in conjunction with Section 10162 of the Code and Section 2715 of the Regulations.

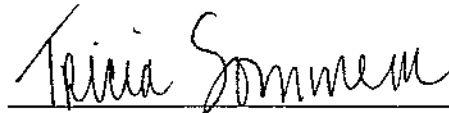
COST RECOVERY

The acts and/or omissions of Respondent as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to

1 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

2 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
3 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent under the Code, for the cost of
5 investigation and enforcement as permitted by law, and for such other and further relief as may
6 be proper under the provisions of law.

7 

8 TRICIA SOMMERS
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 6th day of December, 2012

12
13 DISCOVERY DEMAND

14 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of
15 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
16 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
17 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
18 Office of Administrative Hearings deems appropriate.
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