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FILED

OCT 06 2016

BUREAU OF REAL ESTATE

By R. Podesta

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-5922 SAC
)	
RONALD E. RUSSELL,)	<u>First Amended Accusation</u>
)	
Respondent.)	
_____)	

This Accusation amends the Accusation filed on December 7, 2012. The Complainant, Tricia D. Parkhurst, a Supervising Special Investigator of the State of California, for cause of Accusation against RONALD E. RUSSELL, ("Respondent") alleges as follows:

1.

The Complainant, Tricia D. Parkhurst, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

On March 28, 2014, Respondent's real estate broker license was suspended, due to his incarceration, pursuant to Section 10186.1 of the California Business and Professions Code ("Code"). The broker license remains suspended to date. On May 25, 2016, Respondent's license expired. Pursuant to Business and Professions Code Section 10201,

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1 Respondent retains renewal rights for two years. The Bureau of Real Estate¹ ("Bureau") holds
2 jurisdiction over the lapsed license, pursuant to Business and Professions Code Section 10103.

3 3.

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

6 4.

7 FIRST CAUSE OF ACTION

8 On or about April 25, 2014, Respondent was convicted in the Superior Court of
9 California, County of Sacramento, Case No. 12F05835, for violating forty-nine (49) felony
10 counts of California Penal Code Section 487(a) (grand theft). Respondent was also convicted
11 for violating two (2) misdemeanor counts of California Penal Code Section 484(a) (theft). Said
12 crimes bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code
13 of Regulations, to the qualifications, functions or duties of a real estate licensee. Respondent
14 was sentenced to 13 years and 4 months in prison. The court also ordered that Respondent's
15 real estate broker license be revoked.

16 5.

17 On or about May 1, 2014, Respondent filed an appeal of the case described
18 above with the Court of Appeal of the State of California, Third Appellate District, Case No.
19 C076370. On July 22, 2016, the trial court judgment was affirmed, with a modification of the
20 days of custody credit granted to Respondent.

21 6.

22 The crimes of which Respondent was convicted, as described in Paragraph 4
23 above, constitute cause under Sections 490 and 10177(b) of the Code for the suspension or
24 revocation of the license and license rights of Respondent under the Real Estate Law.

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27 ¹ Effective July 1, 2013, the "Department of Real Estate" became the "Bureau of Real Estate."

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7.

SECOND CAUSE OF ACTION

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

8.

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

9.

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
Madihah 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.

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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 Second 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.

13.

THIRD CAUSE OF ACTION

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

14.

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

15.

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 following the Buyer described in Paragraph 9.

16.

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

1 use as required by Section 10085 of the Code and Section 2970 of Title 10 of the California
2 Code of Regulations (Regulations);

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

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

7 17.

8 The acts and/or omissions of Respondent described in the Second Cause of
9 Action, constitute violation of Section 10177(d) of the Code in conjunction with Sections
10 10085, and 10146 of the Code and Sections 2970 and 2972 of the Regulations, and are cause
11 for the suspension or revocation of Respondent's license and license rights.

12 18.

13 FOURTH CAUSE OF ACTION

14 Each and every allegation in Paragraphs 1 through 17, inclusive, above, are
15 incorporated by this reference as if fully set forth herein.

16 19.

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

19 20.

20 The trust funds accepted or received by Respondent as described in Paragraph 19
21 were deposited or caused to be deposited by Respondent into trust accounts which were
22 maintained by Respondent for the handling of trust funds, and thereafter from time-to-time
23 Respondent made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
25 Bank Name and Location:	Chase
	JP Morgan Chase Bank, N.A.
	1950 Arden Way
	Sacramento, CA 95815

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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

21.

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,

1 and/or failed to maintain a record of such reconciliations for each account as required by
2 Section 2831.2 of the Regulations; and

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

6 22.

7 In the course of the activities described in Paragraph 15, Respondent:

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

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

14 23.

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

18 (1) As to Paragraphs 21(a), under Section 10177(d) of the Code in
19 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

20 (2) As to Paragraph 21(b), under Section 10177(d) of the Code in
21 conjunction with Section 2831 of the Regulations;

22 (3) As to Paragraph 21(c), under Section 10177(d) of the Code in
23 conjunction with Section 2831.1 of the Regulations;

24 (4) As to Paragraph 21(d), under Section 10177(d) of the Code in
25 conjunction with Section 2831.2 of the Regulations;

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1 (5) As to Paragraph 21(e), under Section 10177(d) of the Code in
2 conjunction with Section 10148 of the Code;

3 (6) As to Paragraph 22(a), under Section 10177(d) of the Code in
4 conjunction with Section 2831 of the Regulations; and

5 (7) As to Paragraphs 22(b), under Section 10177(d) of the Code in
6 conjunction with Section 10162 of the Code and Section 2715 of the Regulations.

7 COST RECOVERY

8 Code Section 10106, provides, in pertinent part, that in any order issued in
9 resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may
10 request the administrative law judge to direct a licensee found to have committed a violation of
11 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
12 the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the
14 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
15 disciplinary action against all the licenses and license rights under the Real Estate Law of
16 Respondent RONALD E. RUSSELL, for the cost of investigation and enforcement as permitted
17 by law, and for such other and further relief as may be proper under other applicable provisions
18 of law.

19 Dated at Sacramento, California

20
21 this 4th day of October, 2016

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23 

24 Tricia D. Parkhurst
25 Supervising Special Investigator

26 cc: RONALD E. RUSSELL
27 Tricia D. Parkhurst
Sacto.

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