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FILED
JUN 19 2012

DEPARTMENT OF REAL ESTATE
By *R. Mar*

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
12)	NO. H-11413 SF
13	SAM'S DOGHOUSE, INC. and)	
14	MIKE NELSON ROWLAND,)	<u>ACCUSATION</u>
15)	
16	Respondents.)	

17 The Complainant, E.J. HABERER, II, acting in his official capacity as a Deputy
18 Real Estate Commissioner of the State of California, for cause of Accusation against
19 Respondents SAM'S DOGHOUSE, INC. (herein "SAM'S DOGHOUSE") and MIKE NELSON
20 ROWLAND (herein "ROWLAND") are informed and alleges as follows:

21 1.

22 SAM'S DOGHOUSE is presently licensed by the Department of Real Estate
23 (herein "the Department") and/or has license rights under the Real Estate Law, Part 1 of
24 Division 4 of the Business and Professions Code (herein "the Code") as a corporate real estate
25 broker, and at all times relevant herein was acting by and through ROWLAND as its designated
26 broker officer.

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2.

At all times herein mentioned, ROWLAND was licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the Code (herein “the Real Estate Law”) as an individual real estate broker and as the designated broker officer of SAM’S DOGHOUSE.

3.

At all times relevant herein, ROWLAND was licensed by the Department as the designated broker officer of SAM’S DOGHOUSE, and in that capacity 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 SAM’S DOGHOUSE for which a real estate license is required.

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of SAM’S DOGHOUSE, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed by or associated with SAM’S DOGHOUSE committed such act or omission while engaged in furtherance of the business or operations of SAM’S DOGHOUSE and while acting within the course and scope of their authority and employment.

5.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of:

- (a) section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity;

1 (b) section 10131(b) of the Code, including the operation and conduct of a property
2 management business with the public wherein, on behalf of others, for
3 compensation, leased or rented or offered to lease or rent, or placed for rent, or
4 solicited listings of places for rent, or solicited for prospective tenant, or
5 negotiated for sale, purchase or exchanges of leases on real property, or on a
6 business opportunity, or collected rent from real property, or improvements
7 thereon, or from business opportunities; and

8 (c) section 10131(d) of the Code in the operation of a mortgage loan brokerage,
9 wherein Respondents solicited borrowers or lenders for or negotiated loans or
10 collected payments or performed services for borrowers or lenders or note owners
11 in connection with loans secured directly or collaterally by liens on real property
12 or on a business opportunity, and wherein Respondents arranged, negotiated,
13 processed, and consummated such loans.

14 AUDIT VIOLATIONS

15 (As to Respondent SAM'S DOGHOUSE)

16 6.

17 Each and every allegation contained above in Paragraphs 1 through 5, inclusive,
18 is incorporated by this reference as if fully set forth herein.

19 7.

20 Beginning on February 1, 2011 and continuing intermittently through February 4,
21 2011, the Department conducted an audit at SAM'S DOGHOUSE'S main office located at 400
22 Appian Way, El Sobrante, CA 94803, where the auditor examined records for the period of
23 January 1, 2010 to December 31, 2010 (herein "the audit period").

24 8.

25 While doing business within the audit period, SAM'S DOGHOUSE accepted or
26 received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others

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1 in connection with the mortgage loan brokerage activities and deposited or caused to be
2 deposited those funds into bank accounts maintained by SAM'S DOGHOUSE, including:

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America, 3939 San Pablo Dam Road, El Sobrante, CA 94803
Account No.:	XXXXXX-X2509
Entitled:	Sam's Doghouse, Inc., dba Windermere Rowland Realty Trust Account
Signatories:	Mike N. Rowland (REB) and Renee Rowland (unlicensed)
No. of Signatures Required:	One

9 From time to time, SAM'S DOGHOUSE made collections to and disbursement from said trust
10 funds.

11 9.

12 In the course of the activities described above in Paragraph 5, in connection with
13 the collection and disbursement of trust funds, SAM'S DOGHOUSE:

- 14 (a) failed to maintain accurate trust fund records in that Trust Account #1
15 contained a shortage of \$14,011.03 in violation of section 10145 of the Code
16 and section 2832.1 of the Regulations;
- 17 (b) failed to maintain a control record for Trust Account #1 in violation of
18 section 10145 of the Code and section 2831 of the Regulations;
- 19 (c) failed to maintain accurate separate beneficiary records for Trust Account #1
20 in that the statements did not identify: (1) the dates when trust funds were
21 received and disbursed; (2) check numbers; and (3) the daily running balance,
22 all of which violate section 10145 of the Code and section 2831.1 of the
23 Regulations;
- 24 (d) failed to reconcile at least once a month, the balance of all separate
25 beneficiary or transaction records with the balance of the control records for
26 Trust Account #1 in violation section 10145 of the Code and section 2831.2
27 of the Regulations;

- 1 (e) allowed Renee Rowland, who is not a real estate licensee and not covered
2 under a fidelity bond as required, to serve as a signor on Trust Account #1 in
3 violation of section 10145 of the Code and section 2834 of the Regulations;
4 and
5 (f) failed to deposit trust funds received on November 5, 2010 in the amount of
6 \$1,250.00 from tenants Luis M., and Maribel V. into Trust Account #1 within
7 three business days of receipt for property located at 4270 Appian Way in
8 violation of section 10145 of the Code and section 2832 of the Regulations.

9 10.

10 The acts and/or omissions of SAM'S DOGHOUSE, as alleged above in
11 Paragraph 9, are grounds for discipline under sections 10177(d) and 10177(g) of the Code.

12 11.

13 The acts and/or omissions of SAM'S DOGHOUSE as alleged above in
14 Paragraph 9, entitle the Department to reimbursement of the costs of its audit pursuant to section
15 10148 of the Code.

16 SECOND CAUSE OF ACTION
17 Unlicensed Fictitious Business Name
18 (As Against SAM'S DOGHOUSE)

19 12.

20 Each and every allegation in Paragraphs 1 through 11, inclusive, above, is
21 incorporated by this reference as if fully set forth herein.

22 13.

23 SAM'S DOGHOUSE conducted real estate business under the fictitious business
24 name of "Windermere Property Management" without obtaining a license bearing said fictitious
25 business name in violation of section 2731 of the Regulations.

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14.

The acts and/or omissions of SAM'S DOGHOUSE as alleged above in Paragraph 13 constitute grounds for the discipline of all licenses and license rights of SAM'S DOGHOUSE pursuant to section 10159.5 of the Code.

THIRD CAUSE OF ACTION
Failure to Supervise
(As Against ROWLAND)

15.

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

16.

ROWLAND, as the designated officer broker of SAM'S DOGHOUSE, was required to exercise reasonable supervision and control over the activities of SAM'S DOGHOUSE. ROWLAND failed to exercise reasonable supervision over the acts and/or omissions of SAM'S DOGHOUSE in such a manner as to allow the acts and/or omissions as described in Paragraphs 1 through 14, above, to occur, all in violation of section 10159.2 of the Code and section 2725 of the Regulations.

17.

The facts described above as to the Third Cause of Action constitutes cause for the discipline of all licenses and license rights of ROWLAND under section 10177(g) of the Code and/or section 10177(h) of the Code in conjunction with section 10177(d) of the Code.

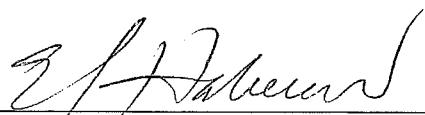
18.

Pursuant to section 10106 of the Code, the Department seeks reimbursement for the reasonable costs of the investigation and prosecution of this case upon proof thereof.

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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 all licenses and license rights of all Respondents named herein under the Real Estate Law, for costs of the investigation, audit and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.



E.J. HABERER, II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 04 day of June, 2012.