

FILED

MAR 02 2016

BUREAU OF REAL ESTATE

By R dew

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

DONALD V. TOTTEN,

Respondent.

CalBRE No. H-11844 SF

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on November 3, 2015, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license and/or license rights on grounds of violation of Sections 490 (conviction of crime), 10177(b) (conviction of crime), 10177(d) (willful disregard of Real Estate Law) and 10186.2 (reporting requirements) of the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("the Code").

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1

On May 27, 2015, Robin S. Tanner made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Bureau on May 27, 2015.

On November 3, 2015, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent is presently licensed and/or has license rights under the Code as a real estate salesperson, which license expired on May 3, 2014.

3

On or about October 28, 2014, in the United States District Court, Southern District of California, Case No. 13CR2914 MMA, Respondent was convicted of two (2) counts of violating 18 U.S. Code Section 1349 (conspiracy to commit wire fraud affecting a financial institution) and one (1) count of violating 26 U.S. Code Section 7206(a) (filing false income tax return), felonies and crimes which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations ("the Regulations"), to the qualification, functions or duties of real estate licensee.

4

On or about October 28, 2014, in the United States District Court, Southern District of California, Case No. 14CR0487 MMA, Respondent was convicted of violating 18 U.S. Code Section 152 (concealing assets, false oath and claims bribery), a felony and a crime which bears a substantial relationship under Section 2910 of the Regulations to the qualification, functions or duties of real estate licensee.

5

Respondent failed to notify the Bureau of Real Estate within thirty (30) days of the convictions set forth in Paragraphs 3 and 4, above. Such acts or omissions by Respondent violate Section 10186.2 (reporting requirements) of the Code, and constitute cause under Section 10177(d) (willful disregard of Real Estate Law) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent exists with reference to the acts set forth in Paragraphs 3 through 5, above, pursuant to California Business and Professions Code Sections 490, 10177(b), 10177(d) and 10186.2.

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


ORDER

All licenses and licensing rights of Respondent DONALD V. TOTTEN 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 MAR 23 2016.

DATED: MARCH 1, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: 
JEFFREY MASON
Chief Deputy Commissioner

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8672

FILED

DEC - 2 2015

BUREAU OF REAL ESTATE

By K. Contreras

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

12 In the Matter of the Accusation of)

13 DONALD V. TOTTEN,)

14 Respondent.)
15 _____)

H-11844 SF

DEFAULT ORDER

17 Respondent, DONALD V. TOTTEN, having failed to file a Notice of Defense
18 within the time required by Section 11506 of the Government Code, is now in default. It is,
19 therefore, ordered that a default be entered on the record in this matter.

20
21 IT IS SO ORDERED December 2,, 2015.

22 REAL ESTATE COMMISSIONER

24 By:

25 Joe M. Carrillo
26 JOE M. CARRILLO
27 Northern Regional Manager