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BUREAU OF REAL ESTATE

By John C. Guit

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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|--------------------------------------|---|---------------------------------|
| In the Matter of the Accusation of |) | |
| |) | CalBRE No. H-40139 LA |
| <u>WILLIAM CHRISTIAN AMACKER</u> and |) | |
| CHRISTOPHER MICHAEL BROWN, |) | <u>As to Respondent WILLIAM</u> |
| |) | <u>CHRISTIAN AMACKER only</u> |
| Respondents. |) | |
| _____ |) | |

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 March 7, 2016, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent WILLIAM CHRISTIAN AMACKER's ("Respondent AMACKER") express admissions; (2) affidavits; and (3) other evidence.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On January 12, 2016, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed to Respondent AMACKER's last known address of record by regular mail and by certified mail, return receipt requested, on February 12, 2016.

2.

On March 7, 2016, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

3.

Unless otherwise noted, all references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

4.

From January 25, 2008, through the present, Respondent WILLIAM CHRISTIAN AMACKER ("AMACKER") has been licensed by the Bureau as a real estate broker, License ID 01395856. Respondent AMACKER was licensed as a real estate salesperson from November 24, 2003 through November 23, 2007. Respondent AMACKER has been licensed to do business as "Beeline Realty and Property Management" since February 4, 2011.

5.

Beeline Realty and Property Management, Inc. is a California corporation formed on or about April 1, 2009. Respondent is the sole officer and director for Beeline Realty and Property Management, Inc.

6.

From November 9, 2005, through the present, Respondent CHRISTOPHER MICHAEL BROWN ("BROWN") has been licensed by the Bureau as a real estate salesperson, License ID 01717793. From May 17, 2009 through May 29, 2015, Respondent BROWN was licensed under the employment of Respondent AMACKER.

7.

April Dawn Graham has never been licensed in any capacity by the Bureau.

Audit LA 140168

8.

On or about August 25, 2015, the Bureau completed an audit examination of the books and records of Respondent AMACKER's real estate activities which require a real estate license pursuant to Code section 10131. The audit examination covered a period of time beginning on April 1, 2014, to March 31, 2015. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 140168 and the exhibits and work papers attached to said audit report.

9.

During the audit period, Respondent AMACKER alleged to have managed 444 properties for 380 property owners and collected approximately 9.3 million in trust funds annually for the property management activity. Respondent AMACKER claimed to have maintained eight (8) bank accounts for the handling of the receipts and disbursements of property management activities for the audit period as follows:

Bank Account 1 (B/A 1)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX2023

Signatories: Respondent AMACKER and April Dawn Graham (non-licensee)

of signatures required: 1

Description: B/A 1 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (rents) in connection with Respondent AMACKER's property management activities. B/A 1 was closed on January 21, 2015 due to fraudulent activity and replaced by B/A 2.

Bank Account 2 (B/A 2)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX6717

Signatories: Respondent AMACKER and April Dawn Graham

of signatures required: 1

Description: B/A 2 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (rents) in connection with Respondent AMACKER's property management activities. B/A 2 was opened on January 21, 2015.

Bank Account 3 (B/A 3)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX1272

Signatories: Respondent AMACKER and April Dawn Graham

of signatures required: 1

Description: B/A 3 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (rents and security deposits) in connection with Respondent AMACKER's property management activities. B/A 3 was also maintained for general business activity.

Bank Account 4 (B/A 4)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX1777

Signatories: Respondent AMACKER and April Dawn Graham

of signatures required: 1

Description: B/A 4 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (rents) in connection with Respondent AMACKER's property management activities. B/A 4 was also maintained for general business activity.

Bank Account 5 (B/A 5)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX4186

Signatories: Respondent AMACKER

of signatures required: 1

Description: B/A 5 was inactive during the audit period. B/A 5 had \$25,000 in security deposit funds for multiple beneficiaries in connection with Respondent AMACKER's property management activities.

Bank Account 6 (B/A 6)

Bank: Wells Fargo Bank

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX4194

Signatories: Respondent AMACKER

of signatures required: 1

Description: B/A 6 was inactive during the audit period. B/A 6 had \$25,000 in security deposit funds for multiple beneficiaries in connection with Respondent AMACKER's property management activities.

Bank Account 7 (B/A 7)

Bank: California Bank & Trust

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX2471

Signatories: Respondent AMACKER

of signatures required: 1

Description: B/A 7 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (security deposits) in connection with Respondent AMACKER's property management activities.

Bank Account 8 (B/A 8)

Bank: California Bank & Trust

Account Name: Beeline Realty and Property Management Inc.

Account #: XXXXX2391

Signatories: Respondent AMACKER

of signatures required: 1

Description: B/A 8 was used for multiple beneficiaries to maintain receipts and disbursements of trust funds (security deposits) in connection with Respondent AMACKER's property management activities.

Violations

10.

In the course of its property management activities during the examination period described in Paragraph 8, Respondent AMACKER acted in violation of the Code and the Regulations as follows:

Issue 1(a). Code section 10145 and Regulation 2832.1. Trust fund handling for multiple beneficiaries

As of March 31, 2015, there was a combined shortage of <\$534,231.59> in B/A 2 through B/A 8, in violation of Code section 10145 and Regulation 2832.1. The shortage was due to conversion of trust funds totaling <\$161,866.62>, bank service charges totaling <\$1,451.73>, and an unidentified shortage totaling <\$370,913.24>.

Issue 1(b). Code Section 10145 and Regulation 2832.1. Trust fund handling for multiple beneficiaries

As of April 30, 2014, there was a combined shortage of <\$523,691.41> in B/A 1 and B/A 3 through B/A 8 in violation of Code section 10145 and Regulation 2832.1. The shortage was due to conversion of trust funds totaling <\$71,464.48>, bank service charges totaling <\$399.49>, and an unidentified shortage totaling <\$451,827.44>.

Issue 3.¹ Code Section 10145 and Regulation 2831. Trust fund records to be maintained
Respondent AMACKER failed to maintain control records for B/A 1 through B/A, 8 in violation of Code section 10145 and Regulation 2381.

Issue 4. Code section 10145 and Regulation 2831.1. Separate records for each beneficiary or transaction

Respondent AMACKER failed to maintain separate records for each beneficiary or transaction for B/A 1 through B/A 8, in violation of Code section 10145 and Regulation 2831.1.

Issue 5. Code section 10145 and Regulation 2831.2. Trust account reconciliation

During the audit period, Respondent AMACKER failed to perform and maintain an accurate monthly reconciliation comparing the balance of all separate beneficiary or transaction records (separate records) to the balance of all trust funds received and

¹ Issue 2 was intentionally skipped.

disbursed (control record) for B/A 1 through B/A 8, as required. Said acts, conduct or omissions are in violation of Code section 10145 and Regulation 2831.2.

Issue 6. Code section 10145 and Regulation 2832. Trust Fund handling

According to the bank signature cards for B/A 1 through B/A 8, which were used for handling trust funds, the bank accounts were not set up in the name of Respondent AMACKER or Respondent AMACKER's licensed fictitious business name "Beeline Realty and Property Management" as trustee. B/A 1 through B/A 8 were in the name of "Beeline Realty and Property Management Inc.," in violation of Code section 10145 and Regulation 2832.

Issue 7. Code section 10145 and Regulation 2834. Trust account withdrawals

Based on bank account signature cards for B/A 1 through B/A 4, Respondent AMACKER allowed April Dawn Graham (an unlicensed person) to be a signer on the bank accounts without fidelity bond coverage, in violation of Code section 10145 and Regulation 2834.

Issue 8. Code sections 10145 and 10176(e). Commingling/Handling of Trust Funds

Respondent AMACKER commingled trust funds with Respondent AMACKER's general funds by transferring funds between B/A 1, B/A 2, and B/A 3. Examples of the transferred funds include, without limitation, as follows:

Transfers from B/A 1 to B/A 3:

| <u>Date</u> | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 6/03/2014 | \$10,000 | 7/01/2014 | \$10,000 |
| 7/30/2014 | \$5,000 | 8/18/2014 | \$5,100 |
| 8/19/2014 | \$10,000 | 8/29/2014 | \$10,000 |
| 10/29/2014 | \$6,000 | 11/04/2014 | \$20,000 |
| 11/14/2014 | \$10,000 | 11/19/2014 | \$5,000 |

Transfers from B/A 2 to B/A 3:

| <u>Date</u> | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 02/10/2015 | \$45,000 | 02/23/2015 | \$10,000 |
| 02/26/2015 | \$9,500 | 03/24/2015 | \$5,000 |

Transfers from B/A 3 to B/A 1:

| <u>Date</u> | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 4/14/2014 | \$50,000 | 5/12/2014 | \$55,000 |
| 5/20/2014 | \$30,000 | 6/10/2014 | \$44,500 |
| 7/09/2014 | \$50,000 | 7/21/2014 | \$25,000 |
| 9/19/2014 | \$25,000 | 9/22/2014 | \$10,000 |
| 12/16/2014 | \$45,000 | 12/18/2014 | \$20,000 |
| 01/12/2015 | \$100,000 | 1/12/2015 | \$100,000 |

Transfers from B/A 3 to B/A 2:

| <u>Date</u> | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 02/09/2015 | \$100,000 | 3/10/2015 | \$65,000 |
| 3/10/2015 | \$10,000 | 3/13/2015 | \$20,000 |
| 3/18/2015 | \$20,000 | 3/18/2015 | \$3,000 |

Respondent AMACKER also deposited trust funds (security deposits) into B/A 4; B/A 4 was used for Respondent AMACKER's general business activity. Examples of the deposited trust funds include, without limitation, as follows:

| <u>Date of Deposit</u> | <u>Amount</u> | <u>Date of Deposit</u> | <u>Amount</u> |
|------------------------|---------------|------------------------|---------------|
| 6/18/2014 | \$500.00 | 7/08/2014 | \$3,345.00 |
| 8/21/2014 | \$500.00 | 10/01/2014 | \$1,500.00 |
| 02/06/2015 | \$500.00 | | |

Furthermore, Respondent AMACKER deposited trust funds from B/A 7 to B/A 3; B/A 3 was used for Respondent AMACKER's general business activity. Examples of the deposited trust funds include, without limitation, as follows:

| <u>Date of Deposit</u> | <u>Amount</u> | <u>Check No. Cleared B/A 7</u> |
|------------------------|---------------|--------------------------------|
| 11/19/2014 | \$20,000 | 1731 |
| 11/21/2014 | \$30,000 | 1733 |

Said acts, conduct or omissions are in violation of Code sections 10145 and 10176(e).

Issue 9. Code sections 10145, 10176(i) or 10177(j). Conversion of trust funds/Unauthorized Disbursements/Handling of Trust Funds

Respondent AMACKER used B/A 3 and B/A 4 to pay for his personal and financial obligations against the management fees earned/collected. Respondent AMACKER converted trust funds totaling \$161,866.62 from B/A 1, B/A 3 and B/A 4 as of March 31, 2015, and totaling \$71,464.48 from B/A 3 and B/A 4 as of April 30, 2014. Said acts, conduct or omissions are in violation of Code sections 10145 and 10176(i) or 10177(j).

Issue 10. Code sections 10164 and 10165. Appointment of branch or division managers

According to Respondent AMACKER, as of January 1, 2014, Respondent AMACKER appointed Respondent BROWN as a division manager of Beeline Realty and Property Management. Respondent AMACKER claimed to have delegated the responsibility to oversee day-to-day operations, supervise the licensed activities of licensees, and supervise the clerical staff to Respondent BROWN. Respondent AMACKER failed to notify the Bureau of this appointment or provide a copy of the office management agreement to the Bureau, in violation of Code sections 10164 and 10165.

Issue 11. Code section 10159.5 and Regulation 2731. Use of unlicensed fictitious name

During the audit period, Respondent AMACKER used the unlicensed fictitious business name "Beeline Realty and Property Management, Inc." in connection with property management activities, in violation of Code section 10159.5 and Regulation 2731.

Issue 12. Code Sections 10159.2, 10165, 10177(h), and Regulation 2725. Responsibility of Corporate Officer in Charge/Broker Supervision

Based on the Bureau's audit findings, Respondent AMACKER failed to exercise reasonable supervision and control over his corporation's property management activities to secure full compliance with the Real Estate Law, in violation of Code Sections 10159.2, 10165, 10177(h), and Regulation 2725.

Fraud/Theft/Dishonest Dealing

11.

There is hereby incorporated in this Second, separate and distinct Cause of Accusation, all of the allegations contained in Paragraphs 1 through 10, with the same force and effect as if herein fully set forth.

12.

The Bureau has received approximately 15 complaints from consumers concerning Respondent AMACKER's property management activities, while doing business as Beeline Realty and Property Management ("Beeline"). On or about June 30, 2015, Respondent AMACKER notified Beeline's clients that Beeline was closing its doors. Respondent AMACKER failed to return some or all of the trust funds (consisting of security deposits, rent payments, or both) belonging to property owners for several properties including, but not limited to, the following properties: 74179 Pete Place, Palm Desert, California; 21024 Canyon Ridge Drive, Lake Elsinore, California; 44715 La Paz Rd. #C, Temecula, California; 11512 Bridge Bay Dr., Riverside, California; 13575 Jasper Loop, Eastvale, California; 26043 Bancroft St., Loma Linda, California; 932 Oak Glen Lane, Colton, California; 24131 Five Tribes, Murrieta, California; 34003 Winterberry Lane, Lake Elsinore, California; 40468 Charleston St., Temecula, California; 5124 Willow Springs Dr., Yucaipa, California; and 7475 Valley Meadow, Eastvale, California.

13.

In a letter dated June 30, 2015, Respondent AMACKER informed Beeline's clients that Beeline was missing approximately \$1030 for each property. Respondent AMACKER had informed the Bureau's auditor that Beeline managed 444 properties. The amount of \$1,030 for 444 properties is \$457,320. As of March 31, 2015, there was a combined shortage of <\$534,231.59> in Respondent's bank accounts B/A 2 through B/A 8 used for Beeline's property management services. Respondent AMACKER's letter to Beeline clients also stated that Beeline had negotiated a deal with Access Property Management (License ID 01870371) which would give Beeline clients a \$600 cash sign-on bonus and four months of free property management services in order to induce clients to sign a one-year property management agreement with Access Property Management. Respondent AMACKER filed for bankruptcy. In

or around August of 2015, AMACKER listed Beeline's clients as creditors whose claims should be discharged.

14.

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

15.

Code Section 10148(b) provides, in pertinent part, that the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the Commissioner interpreting said section.

16.

The Bureau incurred investigation costs of \$3,366.70, enforcement costs of \$1,468.50, and audit costs of \$10,350.45 in this case.

DETERMINATION OF ISSUES

1.

The violations noted above in Paragraph 10 constitute cause for the suspension or revocation of the real estate license and license rights of Respondent AMACKER under the provisions of Code Sections 10177(d), 10177(h), 10176(e), 10176(i), and 10177(j).

2.

The conduct, acts and/or omissions of Respondent AMACKER as described in Paragraphs 12 and 13, above, constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondent AMACKER under the provisions of Code sections 10176(i).

3.

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

ORDER

The license and license rights of Respondent WILLIAM CHRISTIAN AMACKER 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 APR 25 2016 .

DATED: MARCH 26, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By 
JEFFREY MASON
Chief Deputy Commissioner

Bureau of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013
(213) 576-6982

FILED

MAR - 7 2016

BUREAU OF REAL ESTATE

By

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

| | | |
|------------------------------------|---|----------------------|
| In the Matter of the Accusation of |) | No. H-40139 LA |
| |) | |
| WILLIAM CHRISTIAN AMACKER, |) | <u>DEFAULT ORDER</u> |
| |) | |
| Respondent. |) | |
| _____ |) | |

Respondent WILLIAM CHRISTIAN AMACKER, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED March 7, 2016.

REAL ESTATE COMMISSIONER

By:

Phillip Ihde
PHILLIP IHDE
Regional Manager