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FILED

JAN 24 2012

DEPARTMENT OF REAL ESTATE
BY: Lucille Valencia

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of RICKEY EARL BAILEY, d.b.a. Autumn Leaf Real Estate/Property Mgmt, and ANNIE BELL SIMMONS Respondents.	NO. H-37205 LA

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 December 27, 2011 and the findings of fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate licenses on grounds of violating the Real Estate Law.

FINDINGS OF FACT

1.

On December 14, 2010, Joseph Aiu made the Accusation in his 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, and by regular mail to Respondents' last known mailing addresses on file with the Department on April 15, 2011.

2.

Respondent RICKEY EARL BAILEY ("BAILEY") filed a Notice of Defense. Respondent was duly notified of the hearing, which was scheduled for December 15, 2011.

3.

BAILEY failed to appear at the December 15, 2011 hearing. On December 27, 2011, BAILEY's default was entered herein.

4.

On April 9, 2011, an individual named "Ervin Robins" signed for receipt of the certified mailing sent to Respondent ANNIE BELL SIMMONS ("SIMMONS").

5.

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

LICENSE HISTORY

6.

BAILEY is presently licensed or has license rights issued by the Department of Real Estate ("Department") as a real estate broker. BAILEY was first licensed by the Department as a broker on June 2, 2003. From June 2, 2003 to the present, BAILEY has had the d.b.a. "Autumn Leaf Real Estate/Property Mgmt" registered with the Department.

7.

SIMMONS is presently licensed or has license rights issued by the Department as a real estate salesperson. SIMMONS was first licensed by the Department as a salesperson on April 28, 2001. From May 16, 2005 through the present, SIMMONS has been employed under the broker license of BAILEY.

ADVANCE FEE VIOLATIONS

(SIMMONS - AUTUMN LEAF INVESTMENT CLUB, LLC)

8.

Autumn Leaf Investment Club, LLC ("ALIC") is not now, and has never been, licensed by the Department in any capacity. ALIC is registered as a corporation with the California Secretary of State, at the same business address as SIMMON's broker. SIMMONS is the agent for service of process for ALIC. SIMMONS signed as the organizer of ALIC in the Articles of Organization for ALIC. SIMMONS is also listed as the CEO of ALIC on company documents.

9.

On or about January 22, 2009, Mark and Yvonne Eisner (the "Eisners") entered into a loan modification agreement in which they agreed to pay ALIC advance fees of $950. On January 22, 2009, the Eisners issued $500 to ALIC by credit card, prior to obtaining any modification on their home loan.

10.

On or about January 25, 2009, Michael S. Berry("Berry") entered into a loan modification agreement in which he agreed to pay ALIC advance fees of $950. On January 27, 2009, Berry issued $500 to ALIC by credit card, prior to obtaining any modification on his home loan.

BROKERAGE

(BAILEY - AUTUMN LEAF REAL ESTATE/PROPERTY MGMT)

11.

At all times mentioned, in the city of Temecula, County of Riverside, BAILEY acted as a real estate broker conducting licensed activities within the meaning of Code Section 10131(b) by operating a property management brokerage, d.b.a. Autumn Leaf Real Estate/Property Mgmt.

AUDIT

12.

On August 31, 2010, the Department completed an audit examination of the books and records of BAILEY pertaining to the property management activities described in Paragraph 11 that require a real estate license. The audit examination covered a period of time beginning from December 1, 2007 to February 18, 2010. 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 SD 090029 and the exhibits and workpapers attached to said audit report.

VIOLATIONS OF THE REAL ESTATE LAW

13.

In the course of activities described in Paragraph 11 above and during the examination period described in Paragraph 12, BAILEY acted in violation of the Code and the Regulations in that:

(a) BAILEY's property management bank account had a minimum shortage of $32,311.08, as of February 18, 2010. The bank account also was not designated as a trust account in the name of BAILEY or Autumn Leaf Real Estate and Property Mgmt, in violation of Code Section 10145 and Regulations 2832.1 and 2832.

(b) The trust fund receipts and disbursements for Bailey's property management activities were deposited into Bailey's general account and commingled with Bailey's funds, in violation of Code Sections 10145 and 10176(e) and Regulations 2832 and 2835.

(c) The columnar records maintained for the handling of trust fund receipts and security deposits were inaccurate and incomplete, in violation of Code Section 10145 and Regulation 2831.

(d) The separate records maintained for handling of trust fund receipts and disbursements were inaccurate and incomplete. They not did reflect accurate dates of when trust funds were received, dates and amounts of disbursements, and a running daily balance, in violation of Code Section 10145 and Regulation 2831.1.

(e) Bailey did not maintain a monthly trust fund reconciliation of all separate records to the columnar records of trust funds received and disbursed from his bank account, in violation of Code Section 10145 and Regulation 2831.2.

(f) Bailey's operating expenses and payrolls were disbursed from the same general account into which Bailey deposited trust funds from his property management services. The balance of Bailey's general account was reduced to an amount less than the amount of trust funds deposited. This amounted to an unauthorized disbursement or conversion of funds, in violation of Code Sections 10145, 10176(i) and 10177(j).

(g) The bank account used by Bailey was not designated as a trust account in the name of Bailey or the fictitious business name Bailey registered with the Department, in violation of Code Section 10145 and Regulation 2832..

(h) Not all invoices, receipts and disbursements related to Bailey's property management activities were made available for the audit. This failure to retain records violated Code Section 10148.

DETERMINATION OF ISSUES

1.

The fees collected by ALIC and SIMMONS, as described in Paragraphs 9 and 10 above, constitute advance fee agreements within the meaning of Code Section 10026. SIMMONS failed to submit an advance fee agreement to the Commissioner within ten calendar days of its use, in violation of Code Section 10085 and Section 2970 of the Regulations.

2.

Under Code Sections 10132 and 10137, SIMMON's activities, as described in paragraphs 9 and 10 above, could only be performed under the real estate broker whom she was licensed at the time of the transactions, and are in violation of Code Section 10130 and 10137.

3.

The conduct, acts and/or omissions of SIMMONS, as set forth above, are cause for the suspension or revocation

of the licenses and license rights of SIMMONS pursuant to Code Sections 10085, 10137, 10177(d) and 10177(g).

4.

The conduct, acts and/or omissions of BAILEY, as set forth above, are in violation of Code Sections 10145, 10176(i), 10177(j) and 10148 and Regulations 2831, 2831.1, 2831.2, 2832 and 2835 and are cause for the suspension or revocation of the real estate license and license rights of BAILEY, under the provisions of Code Sections 10176(e), 10176(i), 10177(j), 10177(d) and 10177(g).

5.

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

ORDER

The licenses and license rights of Respondents RICKEY EARL BAILEY and ANNIE BELL SIMMONS 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 FEB 13 2012.

DATED: 1/18/12.

BARBARA J. BIGBY
Acting Real Estate Commissioner

Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013

(213) 576-6982

FILED

DEC 27 2011

DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of RICKEY EARL BAILEY, d.b.a. Autumn Leaf Real Estate/Property Mgmt, and ANNIE BELL SIMMONS Respondents.	NO. H-37205 LA DEFAULT ORDER

Respondent RICKEY EARL BAILEY filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for December 15, 2011. Respondent was duly notified of the hearing but failed to appear. Respondent is now in default.

Respondent ANNIE BELL SIMMONS, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default.

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APR 15 2011

DEPARTMENT OF REAL ESTATE
BY: [illegible]

JAMES DEMUS, Counsel (SBN 225005)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6910

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of RICKEY EARL BAILEY, d.b.a. Autumn Leaf Real Estate/Property Mgmt, and ANNIE BELL SIMMONS, Respondents.	No.H-37205-LA A C C U S A T I O N

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner, for cause of Accusation against RICKEY EARL BAILEY, d.b.a. Autumn Leaf Real Estate/Property Mgmt, and ANNIE BELL SIMMONS, is informed and alleges as follows:

1.

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

2.

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.

LICENSE HISTORY

3.

RICKEY EARL BAILEY ("BAILEY") is presently licensed or has license rights issued by the Department of Real Estate ("Department") as a real estate broker. BAILEY was first licensed by the Department as a broker on June 2, 2003. From June 2, 2003 to the present, BAILEY has had the d.b.a. "Autumn Leaf Real Estate/Property Mgmt" registered with the Department.

4.

ANNIE BELL SIMMONS ("SIMMONS") is presently licensed or has license rights issued by the Department as a real estate salesperson. SIMMONS was first licensed by the Department as a salesperson on April 28, 2001. From May 16, 2005 through the present, SIMMONS has been employed under the broker license of BAILEY.

ADVANCE FEE VIOLATIONS

(SIMMONS - AUTUMN LEAF INVESTMENT CLUB, LLC)

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6.

On or about January 22, 2009, Mark and Yvonne Eisner (the "Eisners") entered into a loan modification agreement in which they agreed to pay ALIC advance fees of $950. On January 22, 2009, the Eisners issued $500 to ALIC by credit card, prior to obtaining any modification on their home loan.

7.

On or about January 25, 2009, Michael S. Berry("Berry") entered into a loan modification agreement in which he agreed to pay ALIC advance fees of $950. On January 27, 2009, Berry issued $500 to ALIC by credit card, prior to obtaining any modification on his home loan.

8.

The fees collected by ALIC and SIMMONS, as described in Paragraphs 6 and 7 above, constitute advance fee agreements within the meaning of Code Section 10026. SIMMONS failed to submit an advance fee agreement to the Commissioner within ten calendar days of its use, in violation of Code Section 10085 and Section 2970 of the Regulations.

9.

Under Code Sections 10132 and 10137, SIMMON's activities, as described in paragraphs 6 and 7 above, could only be performed under the real estate broker whom she was licensed at the time of the transactions, and are in violation of Code Section 10130 and 10137.

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10.

The conduct, acts and/or omissions of SIMMONS, as set forth above, are cause for the suspension or revocation of the licenses and license rights of SIMMONS pursuant to Code Sections 10085, 10137, 10177(d) and/or 10177(g).

BROKERAGE

(BAILEY - AUTUMN LEAF REAL ESTATE/PROPERTY MGMT)

11.

At all times mentioned, in the city of Temecula, County of Riverside, BAILEY acted as a real estate broker conducting licensed activities within the meaning of Code Section 10131(b) by operating a property management brokerage, d.b.a. Autumn Leaf Real Estate/Property Mgmt.

AUDIT

12.

On August 31, 2010, the Department completed an audit examination of the books and records of BAILEY pertaining to the property management activities described in Paragraph 11 that require a real estate license. The audit examination covered a period of time beginning from December 1, 2007 to February 18, 2010. 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 SD 090029 and the exhibits and workpapers attached to said audit report.

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VIOLATIONS OF THE REAL ESTATE LAW

13.

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(g) The bank account used by Bailey was not designated as a trust account in the name of Bailey or the fictitious business name Bailey registered with the Department, in violation of Code Section 10145 and Regulation 2832.

(h) Not all invoices, receipts and disbursements related to Bailey's property management activities were made available for the audit. This failure to retain records violated Code Section 10148.

14.

The conduct of BAILEY, described in Paragraph 13, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
13(a)	Code Section 10145 and Regulation 2832.1 and 2832

13(b)	Code Sections 10145 and 10176(e) and Regulation 2832 and 2835
13(c)	Code Section 10145 and Regulation 2831
13(d)	Code Section 10145 and Regulation 2831.1.
13(e)	Code Section 10145 and Regulation 2831.2
13(f)	Code Sections 10145, 10176(i) and 10177(j)
13(g)	Code Section 10145 and Regulation 2832
13(h)	Code Section 10148

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of BAILEY, under the provisions of Code Sections 10176(e), 10176(i), 10177(j), 10177(d) and/or 10177(g).

NEGLIGENCE

15.

The overall conduct of BAILEY constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondent pursuant to Code Section 10177(g).

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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/or license rights of Respondent RICKEY EARL BAILEY, d.b.a. Autumn Leaf Real Estate/Property Mgmt, and ANNIE BELL SIMMONS, under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California
this 14th day of December, 2010.

Joseph Aiu
Deputy Real Estate Commissioner

cc: Rickey Earl Bailey
Annie Bell Simons
Sacto.
Joseph Aiu
L.A. Audits