

1 MARY F. CLARKE, Counsel (SBN 186744)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789 (Main Office)
6 -or- (916) 227-0780 (Direct)
7 -or- (916) 227-9458 (Fax)

FILED

FEB 26 2013

DEPARTMENT OF REAL ESTATE

By K. Contreras

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

11 * * *

12
13 In the Matter of the Accusation of)
14 DONALD LA RUE FLOYD,) NO. H-2811 FR
15 Respondent.) ACCUSATION
16 _____)

17 The Complainant, BRENDA SMITH, a Deputy Real Estate Commissioner of
18 the State of California, makes this Accusation in her official capacity for cause of Accusation
19 against DONALD LA RUE FLOYD (herein "Respondent") dba Don Floyd Realty Property
20 Management, is informed and alleges as follows:

21 1

22 At all times herein mentioned, Respondent was and now is licensed and/or has
23 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
24 Code) (herein "the Code").

25 2

26 At all times herein mentioned, Respondent was and now is licensed by the State
27 of California Department of Real Estate (herein the "Department") as a real estate broker.

1
2 At all times herein mentioned, Respondent engaged in the business of, acted in the
3 capacity of, advertised, or assumed to act as a real estate broker within the State of California on
4 behalf of others, for compensation or in expectation of compensation within the meaning of:

- 5 (a) 10131(a) of the Code, the operation and conduct of a real estate
6 brokerage, which included the sale or offer of sale, purchase or offer
7 of purchase, solicitation of prospective sellers and purchasers of,
8 solicitation or obtaining listings of, or negotiations of the purchase,
9 sale or exchange of real property or a business opportunity; and,
10 (b) Section 10131(b) of the Code, the operation and conduct of a
11 property management business, which included leasing or renting and
12 offering to lease or rent, and placing for rent, and soliciting listings of
13 places for rent, and soliciting for prospective tenants of real property or
14 improvements thereon, and collecting rents from real property or
15 improvements thereon.

16
17 In so acting as a real estate broker, as described in Paragraph 3 above, Respondent
18 accepted or received funds in trust (herein "trust funds") from or on behalf of sellers, purchasers,
19 owners, tenants, and others in connection with the sale of real property or leasing, renting, and
20 collection of rents on real property or improvements thereon.

21
22 The aforesaid trust funds accepted or received by Respondent were deposited or
23 caused to be deposited by Respondent into one or more bank accounts (herein "trust fund
24 accounts") maintained by Respondent for the handling of trust funds at the Madera, California,
25 branch of Union Bank, including but not necessarily limited to:

- 26 (a) "Donald L. Floyd Rental Trust Account," account number
27 xxxxxx9190 (herein "Trust 1"); and,

1 (b) "Donald L. Floyd Depository Trust Account," account number
2 xxxxxx9166 (herein "Trust 2").

3 6

4 Between about January 1, 2012 and October 1, 2012, in connection with the
5 collection and disbursement of said trust funds, Respondent:

6 (a) caused, suffered or permitted the balance of funds in Trusts #1 and
7 #2 to be reduced to amounts less than the liability of Respondent
8 resulting in the trust fund shortages shown below, in violation of
9 Section 2832.1 of Chapter 6, Title 10, California Code of
10 Regulations (herein "the Regulations");

<u>DATE</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
08/31/12	Trust #1	\$8,141.67;
09/30/12	Trust #1	\$1,422.00; and
08/31/12	Trust #2	\$15,708.83.

14 (b) failed to place trust funds entrusted to Respondent into Trust #1
15 within three (3) business days into the hands of a principal on whose
16 behalf the funds were received, into a neutral escrow depository, or
17 into a trust fund account in the name of Respondent as trustee at a
18 bank or other financial institution, as required by Section 10145 of
19 the Code and Section 2832 of the Regulations;

20 (c) failed to keep an accurate and separate record for each beneficiary or
21 transaction for Trusts #1 and #2 which contained all of the
22 information required by Section 10145 of the Code and Section
23 2831.1 of the Regulations, in that Trusts #1 and #2, combined,
24 contained unidentified and/or unaccounted for funds; and

25 (d) failed to reconcile at least once a month, the balance of all separate
26 beneficiary or transaction records with Trusts #1 and #2, as required
27 by Section 2831.2 of the Regulations.

1
2 The facts alleged above are grounds for the suspension or revocation of the
3 licenses and license rights of Respondent under the following provisions of the Code and/or the
4 Regulations:

- 5 (a) as to Paragraph 6(a) under Section 2832.1 of the Regulations,
6 in conjunction with Section 10177(d) of the Code
7 (b) as to Paragraph 6(b) under Section 10145 of the Code and
8 Section 2832 of the Regulations, in conjunction with Section
9 10177(d) of the Code;
10 (c) as to Paragraph 6(c) under Section 10145 of the Code and
11 Section 2831.1 of the Regulations, in conjunction with
12 Section 10177(d) of the Code; and
13 (d) as to Paragraph 6(d) under Section 2831.2 of the Regulations,
14 in conjunction with Section 10177(d) of the Code.
15

16 PRIOR DISCIPLINE

17
18 About August 24, 1999, in Case No. H-1427 FR, the Real Estate Commissioner
19 revoked, with the right to a restricted license, Respondent's real estate broker license for failure
20 to supervise, failure to use contracts that conformed to a Subdivision Public Report Application
21 and failure to notify the Department of material change to the subdivision.
22

23 About July 29, 1985, in Case No. H-755 FR, the Real Estate Commissioner
24 revoked, with the right to a restricted license, Respondent's real estate broker license for trust
25 fund shortages on December 31, 1984 in the amount of about \$16,215.65 and on February 19,
26 1985 in the amount of about \$2,824.94, and commingling of beneficiaries' funds with
27 Respondent's insurance company funds.

