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FILED

FEB 23 2010

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

WILLIAM EDGAR LEWALLEN,

Respondent.

No. H-2875 SD

ORDER GRANTING REINSTATEMENT OF LICENSE

On August 14, 2003, in Case No. H-2875 SD, a Decision was rendered revoking the real estate broker license of Respondent effective October 6, 2003, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on October 6, 2003, and Respondent has operated as a restricted licensee since that time.

On March 18, 2008, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate broker license, and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent meets the requirements of law for the issuance to Respondent of an unrestricted real estate broker license and that it would not be against the public interest to issue said license to Respondent.

1 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
2 reinstatement is granted and that a real estate broker license be issued to Respondent if
3 Respondent satisfies the following conditions within twelve (12) months from the date of this
4 order:

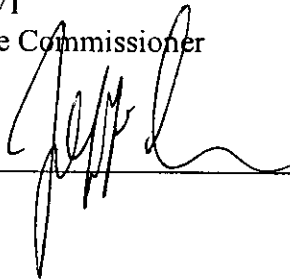
- 5 1. Submittal of a completed application and payment of the fee for a real
6 estate broker license.
7 2. Submittal of evidence of having, since the most recent issuance of an
8 original or renewal real estate license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate
10 license.

11 This Order shall become effective immediately.

12 DATED: 2-17-2010

13 JEFF DAVI
14 Real Estate Commissioner

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ORIGINAL

Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

FILED
SEP 15 2003
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-2875 SD

WILLIAM EDGAR LEWALLEN,

STIPULATION AND AGREEMENT

Respondent.

It is hereby stipulated by and between Respondent WILLIAM EDGAR LEWALLEN, (hereinafter "Respondent") appearing in propria persona, and the Complainant, acting by and through Michael B. Rich, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on July 3, 2003, in this matter (hereinafter "the Accusation"):

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the

1 Administrative Procedure Act (APA), shall instead and in place
2 thereof be submitted solely on the basis of the provisions of
3 this Stipulation and Agreement.

4 2. The Respondent has received, read and
5 understands the Statement to Respondent, the Discovery
6 Provisions of the APA, and the Accusation filed by the
7 Department of Real Estate in this proceeding.

8 3. On July 16, 2003, Respondent filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for
10 the purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that he
13 understands that by withdrawing said Notice of Defense
14 Respondent will thereby waive his right to require the
15 Commissioner to prove the allegations in the Accusation at a
16 contested hearing held in accordance with the provisions of the
17 APA and that Respondent will waive other rights afforded to him
18 in connection with the hearing such as the right to present
19 evidence in defense of the allegations in the Accusation and
20 the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expedience and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being
26 admitted or denied, will serve as a prima facie basis for the
27

1 disciplinary action stipulated to herein. The Real Estate
2 Commissioner shall not be required to provide further evidence
3 to prove said factual allegations.

4 5. It is understood by the parties that the Real
5 Estate Commissioner may adopt the Stipulation and Agreement as
6 her decision in this matter, thereby imposing the penalty and
7 sanctions on Respondent's real estate license and license
8 rights as set forth in the "Order" below. In the event that
9 the Commissioner in her discretion does not adopt the
10 Stipulation and Agreement, it shall be void and of no effect,
11 and Respondent shall retain the right to a hearing and
12 proceeding on the Accusation under all the provisions of the
13 APA and shall not be bound by any admission or waiver made
14 herein.

15 6. The Order or any subsequent Order of the Real
16 Estate Commissioner made pursuant to this Stipulation and
17 Agreement shall not constitute an estoppel, merger or bar to
18 any further administrative or civil proceedings by the
19 Department of Real Estate with respect to any matters which
20 were not specifically alleged to be cause for accusation in
21 this proceeding.

22 7. Respondent understands that by agreeing to this
23 Stipulation and Agreement in Settlement, Respondent agrees to
24 pay, pursuant to Section 10148 of the Business and Professions
25 Code, the cost of the audit that led to this disciplinary action.
26 The amount of said costs is \$3,620.32.
27

1 8. Respondent has received, read, and understands
2 the "Notice Concerning Costs of Audits". Respondent further
3 understands that by agreeing to this Stipulation and Agreement
4 in Settlement, the findings set forth below in the DETERMINATION
5 OF ISSUES become final, and that the Commissioner may charge
6 Respondent for the costs of any subsequent audit conducted
7 pursuant to Section 10148 of the Business and Professions Code
8 to determine if the violations have been corrected. The maximum
9 costs of said audit will not exceed \$3,620.32.

10
11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions
13 and waivers and solely for the purpose of settlement of the
14 pending Accusation without hearing, it is stipulated and agreed
15 that the following Determination of Issues shall be made:

16 I

17 The conduct of Respondent, as described in the
18 Accusation, constitutes cause for the suspension or revocation of
19 the real estate license and license rights of Respondent under
20 the provisions of: Section 10176(i) of the Business and
21 Professions Code (hereinafter "the Code") and Section 10177(d) of
22 the Code in conjunction with Section 10145 of the Code, and
23 Sections 2831, 2832, and 2832.1 of Title 10, California Code of
24 Regulations.

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1 Estate Commissioner or conditions attaching to the restricted
2 license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations, or restrictions
6 of a restricted license until two (2) years have elapsed from
7 the effective date of this Decision.

8 4. Respondent shall, within nine (9) months from the
9 effective date of this Decision, present evidence satisfactory
10 to the Real Estate Commissioner that Respondent has, since the
11 most recent issuance of an original or renewal real estate
12 license, taken and successfully completed the continuing
13 education requirements of Article 2.5 of Chapter 3 of the Real
14 Estate Law for renewal of a real estate license. If Respondent
15 fails to satisfy this condition, the Commissioner may order the
16 suspension of the restricted license until Respondent presents
17 such evidence. The Commissioner shall afford Respondent the
18 opportunity for a hearing pursuant to the Administrative
19 Procedure Act to present such evidence.

20 5. Respondent shall, within six (6) months from the
21 effective date of this Decision, take and pass the Professional
22 Responsibility Examination administered by the Department
23 including the payment of the appropriate examination fee. If
24 Respondent fails to satisfy this condition, the Commissioner may
25 order suspension of Respondent's license until Respondent passes
26 the examination.

1 6. Pursuant to Section 10148 of the Business and
2 Professions Code, Respondent shall pay the Commissioner's
3 reasonable cost for: a) the audit which led to this disciplinary
4 action and, b) a subsequent audit to determine if Respondent has
5 corrected the trust fund violations found in Paragraph I of the
6 Determination of Issues. In calculating the amount of the
7 Commissioner's reasonable cost, the Commissioner may use the
8 estimated average hourly salary for all persons performing
9 audits of real estate brokers, and shall include an allocation
10 for travel time to and from the auditor's place of work.
11 Respondent shall pay such cost within sixty (60) days of
12 receiving an invoice from the Commissioner detailing the
13 activities performed during the audit and the amount of time
14 spent performing those activities. The Commissioner may suspend
15 the restricted license issued to Respondent pending a hearing
16 held in accordance with Section 11500, et seq., of the
17 Government Code, if payment is not timely made as provided for
18 herein, or as provided for in a subsequent agreement between the
19 Respondent and the Commissioner. The suspension shall remain in
20 effect until payment is made in full or until Respondent enters
21 into an agreement satisfactory to the Commissioner to provide
22 for payment, or until a decision providing otherwise is adopted
23 following a hearing held pursuant to this condition.

24 7. Respondent shall prior to the effective date of
25 the Decision provide evidence satisfactory to the Commissioner
26
27

1 that Respondent has cured the trust fund shortages alleged in
2 the Accusation.

3 8. Any restricted real estate broker license issued to
4 Respondent may be suspended or revoked for a violation by
5 Respondent of any of the conditions attaching to the restricted
6 license.

7 9. Respondent shall, prior to and as a condition of
8 the issuance of the restricted license, submit proof
9 satisfactory to the Commissioner of having taken and
10 successfully completed the continuing education course on trust
11 fund accounting and handling specified in subdivision (a) of
12 Section 10170.5 of the Business and Professions Code. Proof of
13 satisfaction of this requirement includes evidence that
14 Respondent has successfully completed the trust fund account and
15 handling continuing education course within 120 days prior to
16 the effective date of the Decision in this matter.

17
18
19 7/5/03

20 DATED

Michael B. Rich
21 MICHAEL B. RICH, Counsel
22 DEPARTMENT OF REAL ESTATE

23 * * *

24 I have read the Stipulation and Agreement and its
25 terms are understood by me and are agreeable and acceptable to
26 me. I understand that I am waiving rights given to me by the
27 California Administrative Procedure Act (including but not

1 limited to Sections 11506, 11508, 11509, and 11513 of the
2 Government Code), and I willingly, intelligently, and
3 voluntarily waive those rights, including the right of
4 requiring the Commissioner to prove the allegations in the
5 Accusation at a hearing at which I would have the right to
6 cross-examine witnesses against me, and to present evidence in
7 defense and mitigation of the charges.

8
9 7-25-03

WEH

10 DATED

WILLIAM EDGAR LEWALLEN
Respondent

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14 * * *

15 The foregoing Stipulation and Agreement for
16 Settlement is hereby adopted by the Real Estate Commissioner as
17 her Decision and Order and shall become effective at 12 o'clock
18 noon on October 6, 2003.

19 IT IS SO ORDERED

August 14 2003
20 PAULA REDDISH ZINNEMANN

21 Real Estate Commissioner

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25
26
27 Paula Reddish Zinnemann

flag

MICHAEL B. RICH, Counsel
State Bar No. 84257
Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

FILED

JUL 03 2003

DEPARTMENT OF REAL ESTATE

By Jean A. ...

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-2875 SD
)	
WILLIAM EDGAR LEWALLEN,)	<u>ACCUSATION</u>
)	
)	
Respondents.)	

The Complainant, J. CHRIS GRAVES, a Deputy Real Estate Commissioner of the State of California, for Cause of Accusation against WILLIAM EDGAR LEWALLEN doing business under the fictitious names of RED CARPET PROPERTY MANAGEMENT and SOUTH COAST REAL ESTATE GROUP (hereinafter referred to as "Respondent"), is informed and alleges as follows:

FIRST CAUSE OF ACCUSATION

I

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

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II

At all time herein mentioned, Respondent was licensed as a Real Estate Broker.

III

The Complainant, J. CHRIS GRAVES, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity and not otherwise.

IV

Within the last three years, Respondent engaged in activities on behalf of others for which a real estate license is required, for or in expectation of compensation, by leasing or renting, offering to lease or rent, soliciting prospective tenants for, collecting rents on, and/or managing certain real properties in California.

V

Beginning in August of 2002, the Department conducted an audit of the above business activities of Respondent for the time period of May 25, 2001 through August 31, 2002. During the course of the activities described above, Respondent received and disbursed funds in trust on behalf of others.

VI

Within the last three years, Respondent deposited the above trust funds into a bank account at Wells Fargo Bank in Chula Vista, California, bearing account number 0653050781, in the name of "Red Carpet Property Mgmt Trust Account" (hereinafter referred to as "Trust Account #1").

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VII

In connection with the collection and disbursement of trust funds, Respondent failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code, in such a manner that as of August 21, 2002, there was a trust fund shortage in Trust Account #1 in the approximate sum of \$10,544.76.

VIII

In connection with said trust funds in Trust Account #1, held on behalf of another or others, Respondent commingled trust funds with Respondent's own money or property and converted said trust funds to Respondents' own use or benefit or to purposes not authorized by the rightful owner or owners of said funds. The exact amount of said converted trust funds is unknown to Complainant, but well known to Respondent and is not less than \$6,922.82.

IX

Respondent failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Trust Account 1 to an amount less than the existing aggregate trust fund liability to the owners of said funds in conformance with Section 2832.1 of the Regulations.

X

In connection with the receipt and disbursement of trust funds as above alleged, and as set forth in Audit No. SD

///

1 020008, dated September 13, 2002, and accompanying working papers
2 and exhibits, Respondent:

3 (a) Failed to maintain a written control record of all
4 trust funds received and disbursed containing all
5 information required by Section 2831 of the
6 Regulations, including but not limited to
7 recordation of all deposits, recordation of dates
8 of receipt, and recordation of accurate dates of
9 deposit of trust funds; and,

10 (b) Failed to deposit to Trust Account #1 all funds
11 received on behalf of others within three (3)
12 business days following receipt of such funds
13 as required by Section 2832 of the Regulations.

14 XI

15 Respondent failed to maintain copies of all listings,
16 deposit receipts, canceled checks and trust records and other
17 documents executed by him or obtained by him in connection with
18 transactions for which a real estate license is required for a
19 period of three years as required by Section 10148 of the Code.

20 XII

21 The acts and/or omissions of Respondents as alleged
22 above constitute grounds for disciplinary action under the
23 following provisions:

24 (a) As to Paragraph VII, under Section 10145 of the
25 Code in conjunction with Section 10177(d) of the
26 Code;

27 ///

- 1 (b) As to Paragraph VIII under Section 10176(i) of the
2 Code;
- 3 (c) As to Paragraph IX, under Section 2832.1 of the
4 Regulations in conjunction with Section 10177(d)
5 of the Code;
- 6 (d) As to Paragraph X(a), under Section 2831 of the
7 Regulations in conjunction with Section 10177(d)
8 of the Code;
- 9 (e) As to Paragraph X(b), under Section 2832 of the
10 Regulations in conjunction with Section 10177(d)
11 of the Code; and,
- 12
- 13 (f) As alleged in Paragraph XI, under Section 10148 of
14 the Code in conjunction with Section 10177(d) of
15 the Code.

16 SECOND CAUSE OF ACCUSATION

17 XIII

18 There is hereby incorporated in this Second, separate
19 and distinct Cause of Accusation, all of the allegations
20 contained in Paragraphs I, II, III and IV of the First Cause of
21 Accusation with the same force and effect as if herein fully set
22 forth.

23 XIV

24 Respondent employed Robert Czarnowski, a licensed real
25 estate salesperson, pursuant to an undated a written employment
26 agreement, from on or about January 1999 through or about June 3,
27 2002.

XV

Respondent employed Dora M. Cortez also known as Doris Cortez, a licensed real estate salesperson, from on or about September 1999 through or about December 2000.

XVI

Respondent employed Janine Rafalovich Donston, a licensed real estate salesperson, pursuant to a written employment agreement dated June 1, 2001, from on or about June 1, 2001 through September 2001.

XVII

Respondent did not notify the Commissioner of the Department of Real Estate of his employment of Robert Czarnowski, Dora M. Cortez, and Janine Rafalovich Donston.

XVIII

The failure of Respondent to notify the Commissioner of the Department of Real Estate in writing on the prescribed form within five days of his employment of Robert Czarnowski, Dora M. Cortez, and Janine Rafalovich Donston as alleged above constitutes grounds for disciplinary action under Section 2752 of the Regulations in conjunction with Business and Professions Code Section 10161.8.

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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 license(s) and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.

J. Chris Graves
J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 28th day of May, 2003