

FILED
AUG 14 1997

DEPARTMENT OF REAL ESTATE

By Shelley Ely

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of))	
PETER GEORGE ANAST,))	NO. H-3020 SAC
Respondent.))	

ORDER DENYING REINSTATEMENT OF LICENSE

On April 17, 1995, a Decision was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on August 18, 1995.

On January 15, 1997, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone

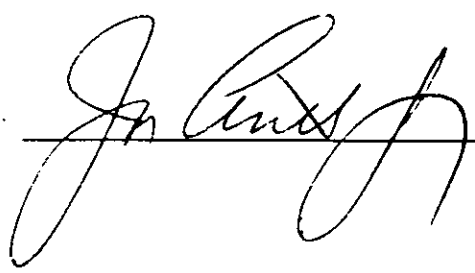
1 sufficient rehabilitation to warrant the reinstatement of
2 Respondent's real estate broker license. The acts which led to
3 the discipline in this matter included Respondent's failure to
4 supervise the licensed acts of a real estate brokerage business
5 operated under Respondent's license. Respondent's failure to
6 supervise was a factor in allowing the mishandling of trust funds
7 by the brokerage business. That mishandling resulted in monetary
8 losses to clients of the brokerage and those losses have still not
9 been repaid. Further, Respondent has no experience acting in a
10 fiduciary capacity since the effective date of the Decision in
11 this matter and has not demonstrated that he is capable of
12 supervising, as a real estate broker, the licensed acts of
13 salespersons. Consequently, Respondent is not able to present any
14 evidence of compliance with Section 2911(b) and (j), Title 10,
15 California Code of Regulations.

16 NOW, THEREFORE, IT IS ORDERED that Respondent's petition
17 for reinstatement of his real estate broker license is denied.

18 This Order shall become effective at 12 o'clock
19 noon on September 3, 1997.

20 DATED: 8/5, 1997.

21 -JIM ANTT, JR.
22 Real Estate Commissioner

23
24 
25
26
27

FILED
APR 19 1995
DEPARTMENT OF REAL ESTATE

By Laurie A. Gian

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
AFFILIATED INVESTMENT)
SERVICES INC.,)
PETER GEORGE ANAST,)
GARY RICHARD BRENZEL,)
)
Respondents.)

NO. H-3020 SAC
OAH NO. N9408052

DECISION

The Proposed Decision dated March 23, 1995, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on May 9, 1995.

IT IS SO ORDERED April 17, 1995.

JOHN R. LIBERATOR
Interim Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
of:)
) NO. H-3020-SAC
AFFILIATED INVESTMENT)
SERVICES INC.,) OAH NO. N9408052
PETER GEORGE ANAST,)
GARY RICHARD BRENZEL)
)
Respondent.)
_____)

PROPOSED DECISION

This matter was heard by Humberto Flores,
Administrative Law Judge of the Office of Administrative
Hearings, on February 23, 1995, in Sacramento, California.

Complainant was represented by Larry A. Alamao, Staff
Counsel.

Respondent Gary Richard Brenzel appeared personally and
was represented by Douglas A. McDonald, Attorney at Law.

Respondent Peter George Anast appeared personally and
represented himself and Affiliated Investment Services, Inc.

Oral and documentary evidence was received at the
hearing. After the first day of testimony in complainant's case
in chief, the parties reached a stipulated settlement which
included a stipulation to the following facts:

I

Charles W. Koenig made the Accusation in his official
capacity as Deputy Real Estate Commissioner of the Department of
Real Estate (hereinafter "Department").

II

At all relevant times, AIS was licensed by the
Department as a real estate corporation, and currently has
licensing rights under Part 1, Division 4, of the Business and
Professions Code (hereinafter "Code").

III

Respondent Anast is presently licensed or has licensing rights under the Code as a real estate broker and at all relevant times, Anast was the designated broker-officer for respondent AIS.

IV

Respondent Brenzel is presently licensed or has licensing rights as a real estate salesperson and at all relevant times, was employed by respondent AIS.

V

The parties stipulated that respondent AIS violated Business and Professions Code sections 10145 and 10177(d).

VI

The parties stipulated that respondent Gary Richard Brenzel violated Business and Profession Codes sections 10145 and 10177(d).

VII

The parties stipulated that respondent Peter George Anast violated Business and Profession Codes sections 10145, 10177(d) and 10177(h).

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Grounds exist for disciplinary action against the license and licensing rights of respondent AIS under Code sections 10145 and 10177(d), based on finding V.

II

Grounds exist for disciplinary action against the license and licensing rights of respondent Gary Richard Brenzel under Code sections 10145 and 10177(d), based on finding VI.

III

Grounds exist for disciplinary action against the license and licensing rights of respondent Peter George Anast, under Code sections 10145, 10177(d) and 10177(h), based on finding VII.

* * * * *

ORDER

I

The license and licensing rights previously issued to the respondent Affiliated Investment Services, Inc., are revoked.

II

The real estate salesperson license and licensing rights previously issued to the respondent Gary Richard Brenzel, are revoked.

III

The real estate Broker's license and licensing rights previously issued to the respondent Peter George Anast, are revoked, provided, however, that a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: March 23, 1995

Humberto Flores

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Contreras

In the Matter of the Accusation of

AFFILIATED INVESTMENT SERVICES,
INC.,
PETER GEORGE ANAST,
GARY RICHARD BRENZEL,

}

Case No. H-3020 SAC
OAH No. N-9408052

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at The
Office of Administrative Hearings, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, California 95814

on (Thursday & Friday) February 23 & 24, 1995, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: August 29, 1994

By Thomas C. Lasken
THOMAS C. LASKEN *Counsel*

1 SUSAN Y. BENNETT, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
JUN 22 1994
DEPARTMENT OF REAL ESTATE

By *Kathleen Contreras*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
)	
12	AFFILIATED INVESTMENT)	NO. H-3020 SAC
13	SERVICES INC.,)	
14	PETER GEORGE ANAST,)	<u>ACCUSATION</u>
15	GARY RICHARD BRENZEL,)	
)	
16	Respondents.)	

17 The Complainant, Charles W. Koenig, a Deputy Real Estate
18 Commissioner of the State of California for cause of Accusation
19 against AFFILIATED INVESTMENT SERVICES INC. (hereinafter
20 "Respondent AIS"), PETER GEORGE ANAST (hereinafter "Respondent
21 ANAST"), and GARY RICHARD BRENZEL (hereinafter "Respondent
22 BRENZEL"), is informed and alleges as follows:

23 FIRST CAUSE OF ACCUSATION

24 1.

25 The Complainant, Charles W. Koenig, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 his official capacity.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

2.

At all times herein mentioned, Respondent AIS is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code) as a real estate corporation acting by and through Respondent ANAST.

3.

At all times herein mentioned, Respondent ANAST is presently licensed and/or has licensed rights under the Code as a real estate broker, and as the designated broker-officer for Respondent AIS.

4.

At all times herein mentioned, Respondent BRENZEL is presently licensed and/or has licensed rights under the Code as a real estate salesperson in the employ of Respondent AIS.

5.

At all times herein mentioned, Respondents, acting on behalf of another or others and in expectation of compensation, leased or rented, offered to lease or rent, solicited prospective tenants, or collected rents from certain real properties located in or near Sacramento, California.

6.

In addition to performing the activities described above, at all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation

1 and conduct of a mortgage loan brokerage business with the public
2 wherein lenders and borrowers were solicited for loans secured
3 directly or collaterally by liens on real property or a business
4 opportunity, wherein such loans were arranged, negotiated,
5 processed, and consummated on behalf of others for compensation or
6 in expectation of compensation.

7 7.

8 In so acting as a property manager as described in
9 Paragraph 5, above, and as a mortgage loan broker as described in
10 Paragraph 6, above, Respondents accepted or received trust funds
11 from or on behalf of property owners, borrowers, lenders or
12 investors and others in connection with the collection of rents on
13 real property and payments of mortgage loans.

14 8.

15 The aforesaid trust funds accepted or received by
16 Respondents were deposited or caused to be deposited by
17 Respondents into one or more bank accounts (hereinafter "trust
18 fund accounts") maintained by Respondent AIS for the handling of
19 trust fund as follows:

- 20 a. Affiliated Investment Services, Inc.
21 Bank of America
Account No. 4365-09417
(hereinafter Trust #1)
- 22 b. Affiliated Investment Services, Inc.
23 Bank of America
24 Account No. 4361-08721
(hereinafter Trust #2)

25 9.

26 Within the three-year period immediately preceding the
27 filing of this Accusation, Respondent AIS failed to deposit and

1 maintain said funds in said trust fund accounts, or disbursed said
2 funds in such a manner that as of May 27, 1993, there was a
3 shortage of not less than \$66,478.54 of said funds in said trust
4 fund accounts.

5 10.

6 Respondent AIS failed to obtain the prior written
7 consent of its principals for the reduction of the aggregate
8 balance of trust funds in said trust fund accounts to an amount
9 less than the existing aggregate trust fund liability to the
10 owners of said funds.

11 11.

12 In connection with the collection and disbursement of
13 trust funds held on behalf of another or others, Respondent AIS
14 converted at least \$38,076.70 of said trust funds to its own use
15 or benefit or to purposes not authorized by the rightful owners of
16 said funds.

17 12.

18 Within the three year period immediately preceding the
19 filing of the Accusation, Respondent AIS failed to do the
20 following:

- 21 (a) Maintain a record of all trust funds received,
22 including uncashed checks held pursuant to
23 instructions of its principals in conformance with
24 Section 2831, Title 10, California Code of
25 Regulations (hereinafter "Regulations");
- 26 (b) Maintain a separate record for each beneficiary or
27 transaction, accounting therein for all trust funds

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

received, deposited and disbursed in conformance with Section 2831.1 of the Regulations; and,
(c) Failing to maintain written authorization permitting Respondent BRENZEL to make withdrawals upon his own signature, in conformance with Section 2834 of the Regulations.

13.

The facts alleged above are grounds for the suspension or revocation of all licenses and license rights of Respondent AIS under the following sections of the Code and Regulations:

- (a) As to Paragraph 9, under Sections 2830 of the Regulations and Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
- (b) As to Paragraph 10, under Section 2832.1 of the Regulations and Section 10145 of the Code in conjunction with Section 10177(d) of the Code;
- (c) As to Paragraph 11, under Section 10176(i) of the Code; and,
- (d) As to Paragraph 12, under Sections 2831, 2831.1, and 2834 of the Regulations, and Section 10145 of the Code in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACCUSATION

14.

There is hereby incorporated in this Second, separate and distinct, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 8 of the First Cause of

1 Accusation with the same force and effect as if herein fully set
2 forth.

3 15.

4 In connection with the trust fund accounts described in
5 Paragraph 8, above, Respondent ANAST failed to exercise reasonable
6 supervision and control over the activities for which a real
7 estate license is required by Respondent AIS, including but not
8 limited to the following:

- 9 (a) Failing to control the maintenance or cause the
10 maintenance of said trust fund accounts in such a
11 manner that the balance of funds in the accounts is
12 equal to the existing aggregate trust fund
13 liability of Respondent AIS to all owners of said
14 funds;
- 15 (b) Failing to obtain or cause the procurement of the
16 prior written consent of the principals of
17 Respondent AIS for the reduction of the aggregate
18 balance of trust funds in said trust fund accounts
19 to an amount less than the existing aggregate trust
20 fund liability to the owners of said funds;
- 21 (c) Failing to maintain or cause the maintenance of a
22 record of all trust funds received, including
23 uncashed checks held pursuant to instructions of
24 Respondent AIS' principals in conformance with
25 Section 2831 of the Regulations;
- 26 (d) Failing to maintain or cause the maintenance of a
27 separate record for each beneficiary or

1 transaction, accounting therein for all trust funds
2 received, deposited and disbursed in conformance
3 with Section 2831.1 of the Regulations;

4 (e) Failing to maintain or cause the maintenance of
5 written authorization on behalf of Respondent AIS
6 for withdrawals from said trust accounts upon
7 Respondent BRENZEL's signature, in conformance with
8 Section 2834 of the Regulations; and,

9 (f) Permitting the conversion of trust funds to
10 Respondents AIS and BRENZEL's own use or benefit or
11 to purposes not authorized by the rightful owners
12 of said funds.

13 16.

14 In connection with the activities described in
15 Paragraphs 5 and 6, above, Respondent ANAST failed to exercise
16 reasonable supervision and control over the activities for which a
17 real estate license is required by Respondent AIS, including but
18 not limited to the following:

19 (a) Failing to maintain or causing the maintenance of a
20 written agreement with Respondent BRENZEL covering
21 material aspects of the relationship between
22 Respondent AIS and Respondent BRENZEL, including
23 supervision of licensed activities and duties in
24 conformance with Section 2726 of the Regulations;

25 (b) Failing to maintain or causing the maintenance of a
26 written agreement delegating the responsibility and
27 authority of Respondent AIS to review, initial, and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

date every instrument which may have a material effect upon the rights or obligations of a party to the transaction, in conformance with Section 2725 of the Regulations; and,

(c) Permitting Respondent BRENZEL, who is licensed as a real estate salesperson, to run the property management business and mortgage loan brokerage business described in Paragraphs 5 and 6, above.

17.

The facts alleged above are grounds for the suspension or revocation of all licenses and license rights of Respondent ANAST under Sections 10177(g) and (h) of the Code.

THIRD CAUSE OF ACCUSATION

18.

There is hereby incorporated in this Third, separate and distinct, Cause of Accusation, all of the allegations contained in Paragraphs 1 through 8 of the First Cause of Accusation with the same force and effect as if herein fully set forth.

19.

Within the three-year period immediately preceding the filing of this Accusation, Respondent BRENZEL, who is licensed as a real estate salesperson, was the director, officer, and sole shareholder of Respondent AIS. Respondent BRENZEL acted as a real estate broker in conducting said property management business and mortgage loan business described in Paragraphs 5 and 6, above.

///
///

20.

In connection with the collection and disbursement of trust funds held on behalf of another or others, Respondent BRENZEL converted at least \$38,076.70 of said trust funds described in Paragraph 7, above, to his own use or benefit or to purposes not authorized by the rightful owners of said funds.

21.

The facts alleged above are grounds for the suspension or revocation of all licenses and license rights of Respondent BRENZEL under Section 10130 of the Code in conjunction with Section 10177(d) of the Code, and Section 10176(i) of the Code.

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 license rights of Respondents AIS, ANAST, and BRENZEL 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 the provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 26th day of May, 1994