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FILED

MAR 13 2020

DEPARTMENT OF REAL ESTATE
By *V. Krapp*

1 Department of Real Estate
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 576-8700
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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation of)
11 REAL PROPERTY MANAGEMENT and) No. H-3278 FR
12 KATHLEEN SCOTT,)
13 Respondents.)

14
15 ORDER VACATING "DEFAULT ORDER"

16 The original Accusation in these proceedings was filed on November 18, 2019.
17 On November 18, 2019, the Accusation, together with an RE 505 "Statement To Respondent"
18 form, an uncompleted RE 503 "Notice of Defense on Accusation" form, and an RE 505A
19 "Discovery Provisions" form were duly served upon Respondents by certified mail, return
20 receipt requested, and regular First-Class mail at the last mailing and business addresses
21 provided to the Department of Real Estate by Respondents.

22 On February 25, 2020, no Notice of Defense having been filed herein within the
23 time prescribed by Section 11506 of the Government Code, Respondents' Default was entered.

24 On March 11, 2020, good cause was presented to set aside the Default Order of
25 February 25, 2020, and to vacate the Decision of March 2, 2020, and to have the matter
26 remanded to the Office of Administrative Hearings as a contested matter.

27 ///

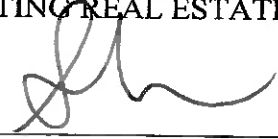
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NOW, THEREFORE, IT IS ORDERED THAT THE Default Order of February 25, 2020, is set aside and the Default Decision of March 2, 2020, is vacated and that the Matter of the Accusation filed on November 18, 2019, is remanded to the Office of Administrative Hearings.

This Order shall be effective immediately.

DATED: 3/12/20

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER



FILED

MAR 03 2020

DEPARTMENT OF REAL ESTATE

By S. Krapp

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
 REALTY PROPERTY MANAGEMENT, INC.,)
 and KATHLEEN REBECCA SCOTT,)
)
 Respondents.)

No. H-3278 FR

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 February 25, 2020, and the findings of fact set forth herein, which 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 that Respondents violated Real Estate Regulations and Law.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1

On November 18, 2019, Brenda Smith made the Accusation ("Exhibit A") 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, by certified mail, return receipt

requested, to Respondent's last known mailing address on file with the Department on November 18, 2019.

2

On February 25, 2020, no Notice of Hearing having been received or filed herein within the time prescribed by Section 11560 of the Government Code, Respondent's default was entered herein.

3

REALTY PROPERTY MANAGEMENT, INC. (RPM) 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 (the Code) as a corporate real estate broker.

4

KATHELEEN REBECCA SCOTT (SCOTT) is presently licensed and/or has license rights as a real estate broker.

5

Beginning on April 5, 2018, and continuing intermittently through August 30, 2019, an audit was conducted at RPM's office located at 2750 N. Clovis Avenue, St. 127, Fresno, California, and at the Department's district office located at 2550 Mariposa Mall, Fresno, California, where the auditor examined records for the period of January 1, 2018, through October 1, 2018 (the audit period).

6

In the course of conducting property management activities, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) An accountability was performed on Trust Account #1 and, as of August 31, 2018, a shortage of \$73,919.65 was revealed in violation of Section 10145 of the Code;
- (b) An accountability was performed on Trust Account #1 and, as of September 30, 2018, a shortage of \$59,121.97 was revealed in violation of Section 10145 of the Code;
- (c) RPM failed to obtain written permission from owners of trust funds in Trust Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (d) RPM failed to maintain accurate records of all funds received and disbursed for Bank Account #1, as required by Section 2831 of the Regulations;

2

- (e) RPM failed to maintain accurate separate beneficiary records for Bank Account #1, as required by Section 2831.1 of the Regulations; and
- (f) RPM failed to perform monthly reconciliations of the separate beneficiary records and control records for Bank Account #1, as required by Section 2831.2 of the Regulations.

7

At all times herein above mentioned, SCOTT was responsible, as the supervising designated broker/officer for RPM, for the supervision and control of the activities conducted on behalf of RPM's business by its employees to ensure its compliance with the Real Estate Law and Regulations. SCOTT failed to exercise reasonable supervision and control over the property management activities of RPM. In particular, SCOTT permitted, ratified and/or caused the conduct described above to occur, and failed to take reasonable steps, including but not limited to, the handling of trust funds, supervision of employees, and the implementation of policies, rules, and systems to ensure the compliance of the business with the Real Estate Law and the Regulations.

Prior Administrative Discipline

8

Effective August 29, 2011, in Case No. H-2505 FR, the Real Estate Commissioner revoked RPM's corporate real estate broker license, granting it the right to apply for a restricted corporate real estate broker license.

DETERMINATION OF ISSUES

1

The acts and/or omissions of RPM as alleged above violate Sections 2831, 2831.1, 2831.2, and 2832.1 of the Regulations and Section 10145 of the Code and are cause for disciplinary action against RPM pursuant to Sections 10177 (d) and 10177(g) of the Code.

The acts and/or omissions of SCOTT as alleged above violate Section 2725 of the Regulations and Section 10159.2 of the Code and are cause for disciplinary action against RPM pursuant to Sections 10177 (d), 10177(g), and 10177(h) of the Code.

2

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

3

ORDER

All licenses and licensing rights of Respondents REALTY PROPERTY MANAGEMENT, INC., and KATHELEEN REBECCA SCOTT, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

MAR 24 2020

This Decision shall become effective at 12 o'clock noon on _____.

DATED: 3/2/20

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER



1 RICHARD K. UNO, Counsel III (SBN 98275)
2 Department of Real Estate
3 P. O. Box 137007
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NOV 18 2019

DEPARTMENT OF REAL ESTATE
By S. Krapp

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 REALTY PROPERTY MANAGEMENT, INC.,)
14 and KATHLEEN REBECCA SCOTT,)

15 Respondents.)

No. H-3278 FR

ACCUSATION

16 The Complainant, BRENDA SMITH, a Supervising Special Investigator of the
17 State of California, for Accusation against REALTY PROPERTY MANAGEMENT, INC.
18 (RPM) and KATHLEEN REBECCA SCOTT (SCOTT), sometimes collectively referred to as
19 Respondents, is informed and alleges as follows:

20 1

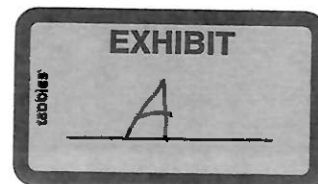
21 The Complainant makes this Accusation against Respondents in her official
22 capacity.

23 2

24 RPM is presently licensed and/or has license rights under the Real Estate Law,
25 Part 1 of Division 4 of the California Business and Professions Code (Code), by the Department

26 ///

27 ///



1 as a corporate real estate broker whose license has at all times mentioned herein since August 28,
2 2019, been and now is a restricted real estate salesperson license subject to terms, conditions, and
3 restrictions pursuant to Sections 10156.6 and 10156.7 of the Code.

4 3

5 SCOTT is presently licensed and/or has license rights under the Code as a real
6 estate broker.

7 4

8 At all times mentioned herein, SCOTT was the designated broker-officer of
9 RPM. As the designated broker-officer, SCOTT was responsible, pursuant to Section 10159.2
10 of the Code, for the supervision of the activities of officers, agents, real estate licensees and
11 employees of RPM, for which a real estate license is required to ensure the compliance of the
12 corporation with the Real Estate law and the Regulations.

13
14 5

15 At all times herein mentioned, Respondents engaged in the business of, acted in
16 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
17 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
18 property management business with the public wherein, on behalf of others, for compensation or
19 in expectation of compensation, Respondents leased or rented, or offered to lease or rent, or
20 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
21 negotiated the sale, purchase or exchange of leases on real property or on a business
22 opportunity, or collected rents from real property, or improvements thereon, or from business
23 opportunities.

24 FIRST CAUSE OF ACTION

25 6

26 Complainant refers to Paragraphs 1 through 5, above, and incorporates the same
27 herein by reference.

Beginning on April 5, 2018, and continuing intermittently through August 30, 2019, an audit was conducted at RPM's office located at 2750 N. Clovis Avenue, Suite 127, Fresno, California, and at the Department's district office located at 2550 Mariposa Mall, Room 3070, Fresno, California, where the auditor examined records for the period of January 1, 2018, through October 1, 2018 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, RPM accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees, and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by RPM, at Pacific West Bank, 775 E. Shaw, #101, Fresno, California, as described below:

TRUST ACCOUNT #1	
Account No.:	XXXXXX2962
Entitled:	Realty Property Management, Inc. Property Management Trust Account

and thereafter from time to time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) An accountability was performed on Trust Account #1 and, as of August 31, 2018, a shortage of \$73,919.65 was revealed in violation of Section 10145 of the Code;
- (b) An accountability was performed on Trust Account #1 and, as of September 30, 2018, a shortage of \$59,121.97 was revealed in violation of Section 10145 of the Code;

- 1 (c) RPM failed to obtain written permission from owners of trust funds in
2 Trust Account #1 to allow the balance to drop below accountability, in
3 violation of Section 2832.1 of the Regulations;
- 4 (d) RPM failed to maintain accurate records of all funds received and
5 disbursed for Bank Account #1, as required by Section 2831 of the
6 Regulations;
- 7 (e) RPM failed to maintain accurate separate beneficiary records for Bank
8 Account #1, as required by Section 2831.1 of the Regulations; and
- 9 (f) RPM failed to perform monthly reconciliations of the separate beneficiary
10 records and control records for Bank Account #1, as required by Section
11 2831.2 of the Regulations.

12 10

13 The acts and/or omissions described above constitute violations of Sections 2831
14 (control records), 2831.1 (separate beneficiary records), 2831.2 (monthly reconciliations), and
15 2832.1 (written permission balance below accountability) of the Regulations and of Section
16 10145 (trust fund handling) of the Code and are grounds for discipline under Sections 10177(d)
17 (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of the
18 Code.

19 SECOND CAUSE OF ACTION

20 11

21 Complainant refers to Paragraphs 1 through 10, above, and incorporates them
22 herein by reference.

23 12

24 At all times herein above mentioned, SCOTT was responsible, as the supervising
25 designated broker/officer for RPM, for the supervision and control of the activities conducted on
26 behalf of RPM's business by its employees to ensure its compliance with the Real Estate Law
27 and Regulations. SCOTT failed to exercise reasonable supervision and control over the property

1 management activities of RPM. In particular, SCOTT permitted, ratified, and/or caused the
2 conduct described above to occur, and failed to take reasonable steps, including, but not limited
3 to, the handling of trust funds, supervision of employees, and the implementation of policies,
4 rules, and systems to ensure the compliance of the business with the Real Estate Law and the
5 Regulations.

6 13

7 The above acts and/or omissions of SCOTT violate Section 2725 (broker
8 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the
9 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
10 10177(g), and 10177(h) (broker supervision) of the Code.

11 Prior Administrative Discipline

12 14

13 Effective August 29, 2011, in case No. H-2505 FR, the Real Estate Commissioner
14 revoked RPM's corporate real estate broker license, granting it the right to apply for a restricted
15 corporate real estate broker license.

16 15

17 Effective December 26, 2007, in Case No. H-2112 FR, the Real Estate
18 Commissioner suspended RPM's corporate real estate broker license for a period of thirty (30)
19 days.

20 16

21 Audit Costs

22 The acts and/or omissions of Respondents, as alleged above, entitle the
23 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs
24 for trust fund handling violations) of the Code.

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Costs of Investigation and Enforcement

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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.

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 under the Real Estate Law and for such other and further relief as may be proper under other provisions of law.


BREND A SMITH
Supervising Special Investigator

Dated at Fresno, California,
this 15 day of November, 2019.

DISCOVERY DEMAND

The Department of Real Estate hereby requests discovery pursuant to Section 11507.6 of the California Government Code. Failure to provide discovery to the Department may result in the exclusion of witnesses and/or documents at the hearing and other sanctions as the Administrative Law Judge deems appropriate.

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FILED

FEB 25 2020

DEPARTMENT OF REAL ESTATE
By K. Kroyer

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
REALTY PROPERTY MANAGEMENT, INC.,) No. H-3278 FR
and KATHLEEN REBECCA SCOTT,) DEFAULT ORDER
Respondents.)

Respondents, REALTY PROPERTY MANAGEMENT, INC., and
KATHELEEN REBECCA SCOTT, having failed to file a Notice of Defense within the time
required by Section 11506 of the Government Code, are now in default. It is, therefore, ordered
that a default be entered on the record in this matter.

IT IS SO ORDERED FEB 25 2020

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER

By: [Signature]
JEFF OBOYSKI,
Assistant Commissioner, Enforcement