

FILED

DEC 06 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)	DRE No. H-3369 FR
)	
RICHARD CHARLES WALKER,)	
)	
Respondent.)	
_____)	

DECISION

This Decision is being issued as to Respondent RICHARD CHARLES WALKER ("Respondent"), 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 November 18, 2021, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate license and/or license rights pursuant to the Real Estate Law, Part I of Division 4, of the Business and Professions Code ("Code") Sections 10177(f) and 10177(g).

Pursuant to Government Code section 11521, the California Department of Real Estate ("Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On October 7, 2021, Brenda Smith, acting in her official capacity as a Supervising Special Investigator of the State of California, made Accusation No. H-3369 FR against Respondent, and is informed and alleges as follows:

2.

Respondent is presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

3.

At all times herein mentioned Respondent was and is licensed by the Department individually as a real estate broker.

4.

At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

5.

While doing business within the audit period, Respondent accepted or received funds in trust ("trust funds") from or on behalf of owners and tenants in connection with leasing, renting and collection of rents on real property or improvements thereon and deposited or caused to be deposited those funds into a bank accounts maintained by Respondent.

6.

In or about April 2013, Respondent entered into a property management agreement with Wayne B. and Susan B. ("Complainants") whereby Respondent agreed to act as Complainants' exclusive agent to manage, operate, maintain, and lease real property owned by Complainants located at 2636 Ironwood Avenue, Morro Bay, California, 93442 ("Subject Property"). Pursuant to the property management agreement, Respondent was also required to make, cause to be made, and/or supervise repairs, improvements, alterations, and decoration to the Subject Property. In exchange, Complainant agreed to compensate Respondent eight percent of the gross monthly rents collected by Respondent in his capacity as the property manager.

7.

From May 2020 and to September 2020 ("Subject Five Months"), Respondent collected \$1400 per month from the tenants of the Subject Property for a total amount of \$8,400. During the Subject Five Months, Complainants received just one payment from Respondent that occurred in May 2020 for \$1,288. Respondent failed to pay Complainants an additional \$6,440 in rent collected during the Subject Five Months. Also during the Subject Five Months, Respondent failed to respond to numerous requests for information by Complainants about the unpaid rental fees.

8.

On or about June 15, 2020, Complainants observed photos of the Subject Property showing that the front and back yards were severely unkempt, and in a state of disarray. Although Complainants sent the photographs of the Subject Property to Respondent and asked him to instruct the tenant to correct them, no maintenance was conducted on the Subject Property and Respondent failed to respond to Complainants.

9.

On or about September 28, 2020, Complainants provided written notice to Respondent stating they were terminating the property management agreement, effective immediately. The written notice also demanded an immediate accounting of all past due rents for the Subject Property, a closing statement, payment of all owner's funds, and the balance of the rents. Respondent did not respond to Complainants written notice and did not provide any of the requested documents or funds.

10.

On or about October 5, 2020, Complainants filed a complaint against Respondent with the Department of Real Estate ("the Department") for the non-payment of rental fees by Respondent which, by that time, totaled \$7,728.

11.

In October 2020, an auditor for the Department began communicating with Respondent about scheduling an audit of Respondent's property management business and obtaining copies of the property management accounting records.

12.

On or about December 1, 2020, Respondent deposited \$6,440 in Complainants' bank account for the payment of rent for April, June, July and August.

13.

On December 3, 2020, after numerous unsuccessful attempts by the Department to obtain property management accounting records from Respondent, the Department served Respondent with a subpoena to produce various property management accounting records.

14.

On August 19, 2021, in Superior Court of the State of California, County of San Luis Obispo, in Case Number 21CV-0178, the Court issued an Order Compelling Compliance with Administrative Subpoena Duces Tecum requiring Respondent to produce the requested property management accounting records to the Department by September 3, 2021. To date, Respondent has not produced the property management accounting records as demanded in the Department's subpoena and as ordered by the San Luis Obispo County Superior Court.

DETERMINATION OF ISSUES

15.

Respondent's action in collecting rent payments for the Subject Property and failing to immediately remit to Complainants the appropriate amount of the rent payments collected, as set forth in Paragraphs 5 through 12, constitutes dishonest dealing and is grounds for the revocation or suspension of Respondent's real estate license and license rights under Section 10176(i), 10177(d), and/or 10177(j) of the Code.

16.

Respondent's failure to maintain and produce property management accounting records, despite numerous requests by Complainant, the Department, and a court order demanding production of said records, as set forth above in Paragraphs 9 through 14, is grounds for the revocation or suspension of Respondent's real estate license and license rights under Section 10148 and/or 10177(d) of the Code.

17.

Respondent's action in failing to ensure that the Subject Property was properly maintained, as set forth in Paragraphs 6 through 8, constitute negligence and incompetence and is grounds for the revocation or suspension of Respondent's real estate license and license rights under Section 10176(g) and 10177(d) of the Code.

18.

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

ORDER

All licenses and licensing rights of Respondent RICHARD CHARLES WALKER 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 DEC 27 2021.

DATED: 11 . 30 . 21.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER



1 Department of Real Estate
2 1651 Exposition, Blvd.
3 Sacramento, CA, 95815

FILED

NOV 18 2021

DEPARTMENT OF REAL ESTATE

By K. Krapp

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. H-3369 FR
12 RICHARD CHARLES WALKER,)
13 Respondent.) DEFAULT ORDER
14)

15 Respondent RICHARD CHARLES WALKER, having failed to file a Notice
16 of Defense within the time required by Section 11506 of the Government Code, is now in
17 default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED NOV 18 2021

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20 DOUGLAS R. McCAULEY
21 REAL ESTATE COMMISSIONER

22
23 By: CS
24 CHIKA SUNQUIST
25 Assistant Commissioner, Enforcement
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