

FILED

JAN 30 2013

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

| | | |
|-------------------------------------|---|-----------|
| In the Matter of the Accusation of |) | |
| |) | H-4318 SD |
| <u>DEEDIE SHIELDS REALTY, INC.,</u> |) | |
| JACQUELINE THOMAS SHIELDS, |) | |
| SCOTT JENKINS SHIELDS and |) | |
| <u>ROBERT ALAN SHIELDS, JR.,</u> |) | |
| |) | |
| Respondents. |) | |
| |) | |

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 November 1, 2012, 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.

FINDINGS OF FACT

1

On March 8, 2012, Veronica Kilpatrick made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondents' last known mailing addresses on file with the Department on March 20, 2012.

2

On November 1, 2012, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, defaults were entered herein against Respondents DEEDIE SHIELDS REALTY, INC. and ROBERT ALAN SHIELDS, JR. (hereinafter collectively referred to as "Respondents").

3

Respondent DEEDIE SHIELDS REALTY, INC. (hereinafter "DSRI"), is presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a corporate real estate broker. At all times relevant herein, and until on or about January 18, 2011, DSRI was acting by and through JACQUELINE THOMAS SHIELDS, as its designated officer broker.

4

At all times relevant herein, DSRI conducted business under its own licensed name and the registered DBA name "Shields Realty" associated with DSRI's corporate real estate broker license.

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Respondent ROBERT ALAN SHIELDS, JR., also known as "Bobby Shields", is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate salesperson. At all times relevant herein, up to and including August 22, 2009, ROBERT ALAN SHIELDS, JR. was employed by DSRI as a real estate salesperson.

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Whenever reference is made in an allegation in the Accusation to an act or omission of DSRI, such allegation shall be deemed to mean that the employees, agents and real estate licensees employed by or associated with DSRI committed such act or omission while engaged in furtherance of the business or operations of DSRI and while acting within the course and scope of their authority and employment.

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

Section 10131(a) of the Code, including the operation and conduct of a real estate brokerage that included the sale or offer of sale, purchase or offer of purchase, solicitation of prospective sellers and purchasers of, solicitation or obtaining listings of, or negotiations of the purchase, sale or exchange of real property or a business opportunity; and

Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents 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.

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Beginning on or about August 2, 2010, and continuing intermittently until October 28, 2010, an audit was conducted at JACQUELINE SHIELDS' residence on Seacoast Drive and the Department's San Diego District Office location, wherein the Auditor examined Respondents' records for the period of March 1, 2007 through July 31, 2010 (hereinafter "the audit period").

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While conducting real estate activities as described in Paragraph 7, above, and within the audit period, Respondents accepted or received funds in trust (hereinafter "trust funds") from or on behalf of sellers, buyers, borrowers, lenders, and others in connection with the sale of residential property, as well as owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by Respondents as described in Paragraph 9, above, were deposited or caused to be deposited by Respondents into bank accounts maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1:

Bank Name and Location: Chase Bank, 4500 Bonita Road, Bonita, CA 91902
Account No.: Last 4 Digits: 0925
Entitled: "Deedie Shields Realty, Inc. Trust Account"
Signatories: Jacqueline T. Shields (REB/DO), Robert Shields (RES), Scott J. Shields (REB, removed as signatory on 8/13/08)
Purpose and Disposition: Trust funds handled by DSRI's property management activities conducted by Scott Shields. No transactions in Trust Account #1 after 8/13/08. Funds in the amount of \$51,962.81 to close Trust Account #1 were used to open Trust Account #3 on 8/15/08.

TRUST ACCOUNT # 2:

Bank Name and Location: Chase Bank, 4500 Bonita Road, Bonita, CA 91902
Account No.: Last 4 Digits: 2165
Entitled: "Deedie Shields Realty I Client Trust Account"
Signatories: Jacqueline T. Shields (REB/DO), Robert Shields (RES)
Purpose and Disposition: Trust funds handled for one property managed by Jacqueline T. Shields. Account closed on 1/29/10.

TRUST ACCOUNT # 3:

Bank Name and Location: Chase Bank, 4500 Bonita Road, Bonita, CA 91902
Account No.: Last 4 Digits: 8081
Entitled: "Deedie Shields Realty I"
Signatories: Jacqueline T. Shields (REB/DO), Robert Shields (RES)
Purpose and Disposition: Unknown. Funds to close Trust Account #1 totaling \$51,962.81 were used to open Trust Account #3. Funds to close Trust Account #3 in the amount of \$47,237.81 were deposited into Trust Account #4 on 2/11/09.

TRUST ACCOUNT # 4:

Bank Name and Location: Chase Bank, 4500 Bonita Road, Bonita, CA 91902
Account No.: Last 4 Digits: 2273
Entitled: "Deedie Shields Realty I"
Signatories: Jacqueline T. Shields (REB/DO), Robert Shields (RES)
Purpose and Disposition: Unknown. Funds totaling \$47,237.81 from Trust Account #3 were deposited into Trust Account #4 on 2/11/09. Trust Account #4 was closed on 1/29/10.

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In the course of the real estate activities described in Paragraph 7, above, and within the audit period, Respondent DSRI:

- (a) caused, suffered or permitted money of others which was received and held by Respondents in Trust Account #1 and Trust Account #3 to be commingled with Respondents' own money, in the form of management fees, in violation of Sections 10145 and 10176(e) of the Code and Section 2835 of Title 10 of the California Code of Regulations (herein the "Regulations");
- (b) failed to maintain or keep an accurate record in chronological sequence of all trust funds received and disbursed (control record) for Trust Account #1, Trust Account #2, Trust Account #3 and Trust Account #4, containing all the information required by Section 2831 of the Regulations, in violation of Section 10148 of the Code;
- (c) failed to maintain separate beneficiary records for Trust Account #1, Trust Account #2, Trust Account #3 and Trust Account #4 as required by Sections 10145(g) and 10148 of the Code, and Section 2831.1 of the Regulations;
- (d) failed to perform the reconciliation of the sum of the separate beneficiary records to the records of all trust funds received and disbursed (control records) on at least a monthly basis for Trust Account #1, Trust Account #2, Trust Account #3 and Trust Account #4, in violation of Section 2831.2 of the Regulations;
- (e) caused, suffered, or permitted the balance of funds in Trust Account #4 to be reduced to an amount which, as of March 30, 2009, was approximately \$43,989.96 less than the

aggregate liability of Trust Account #4 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

- (f) failed to place trust funds entrusted to Respondents into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of DSRI as trustee at a bank or other financial institution, in conformance with the requirements of Section 10145(d)(1) of the Code and Section 2832(a) of the Regulations, in that Respondents placed such funds in Trust Account #2, Trust Account #3 and Trust Account #4, each an account that was not in the name of DSRI as trustee, nor were these accounts designated as trust accounts;
- (g) allowed SCOTT J. SHIELDS to appear as a signatory on Trust Account #1, without written authorization from JACQUELINE SHIELDS as the Designated Officer of DSRI, in violation of Section 10145 of the Code, and Section 2834 of the Regulations;
- (h) allowed ROBERT ALAN SHIELDS, JR. to appear as a signatory on Trust Account #1, Trust Account #2, Trust Account #3 and Trust Account #4, without written authorization from JACQUELINE SHIELDS as the Designated Officer of DSRI, in violation of Section 10145 of the Code, and Section 2834 of the Regulations; and,
- (i) failed to remit funds to a gardening service that performed services for property owners J. and J. Christie due in August 2008 totaling approximately \$750.00 for services rendered in March through July 2007, as required by Section 10145 of the Code.

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In the course of the real estate activities described in Paragraph 7, above, and within the audit period, Respondents DSRI and ROBERT ALAN SHIELDS, JR., as of April 28, 2010, converted for personal use and failed to remit trust funds totaling approximately \$42,269.45 from Trust Account #4 to the following property owners, as required by Section 10145(a)(1), which constitutes a violation of Section 10176(i) of the Code:

| Owner Initials | Owner Funds | Security Deposit | Third Parties Not Paid | Total Converted or Misappropriated |
|----------------|-------------|------------------|------------------------|------------------------------------|
| J. & J. C. | \$405.42 | \$2,050 | \$950 | \$3,405.42 |
| W. C. | \$13,162.13 | \$0 | \$0 | \$13,162.13 |
| D./C. | \$0 | \$1,300 | \$0 | \$1,300 |
| A.D. | -\$462.91 | \$1,600 | \$2,400 | \$3,537.09 |
| W.J. | \$41.79 | \$0 | \$0 | \$41.79 |
| J.M. | \$875.76 | \$1,100 | \$0 | \$1,975.76 |
| C.S. | \$1,635 | \$2,405.08 | \$0 | \$4,040.08 |
| L.S. | \$5,490 | \$1,520 | \$0 | \$7,010 |
| Z. | \$6,647.18 | \$0 | \$1,150 | \$7,797.18 |

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent DEEDIE SHIELDS REALTY, INC. exists with reference to the acts and/or omissions of Respondent, identified above, as follows:

As to paragraph 11(a), under Section 10176(e), 10177(d) and 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2835 of the Regulations;

As to paragraph 11(b), under Section 10177(d) and 10177(g) of the Code in conjunction with Section 10148 of the Code and Section 2831 of the Regulations;

As to paragraph 11(c), under Section 10177(d) and 10177(g) of the Code in conjunction with Sections 10145(g) and 10148 of the Code and Section 2831.1 of the Regulations;

As to paragraph 11(d), under Section 10177(d) and 10177(g) of the Code in conjunction with Section 2831.2 of the Regulations;

As to paragraph 11(e), under Section 10177(d) and 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to paragraph 11(f), under Section 10177(d) and 10177(g) of the Code in conjunction with Section 10145(d)(1) of the Code and Section 2832(a) of the Regulations;

As to paragraph 11(g), under Section 10177(d) and 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

As to paragraph 11(h), under Section 10177(d) and 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

As to paragraph 11(i), under Section 10177(d) and 10177(g) of the Code, in conjunction with Section 10145 of the Code; and,

As to paragraph 12, under Section 10176(i), 10177(d) and 10177(g) of the Code.

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Cause for disciplinary action against Respondent ROBERT ALAN SHIELDS, JR. exists with reference to the acts and/or omissions of Respondent, identified above, as follows:

As to paragraph 12, under Section 10176(i), 10177(d) and 10177(g) of the Code.

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

ORDER

All licenses and licensing rights of Respondent DEEDIE SHIELDS REALTY, INC. under the provisions of Part I of Division 4 of the Business and Professions Code are REVOKED.

All licenses and licensing rights of Respondent ROBERT ALAN SHIELDS, JR. 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 **FEB 18 2013**

DATED: 1/8/13

Real Estate Commissioner


BY AWET P. KIDANE
Chief Deputy Commissioner