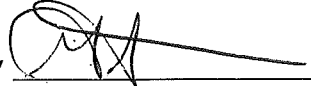


FILED

May 13, 2013

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

SPIRIT INTERNATIONAL, INC.,
SALLY ANN RAYMOND and
MAXINE ROSE ANDERSON,

Respondents.

No. H-4325 SD

(As to Respondents
Spirit International, Inc. and
Sally Ann Raymond Only)

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 April 30, 2013, 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 and/or license rights on grounds of violations of Sections 10085 (submission of advance fee materials), 10137 (employment and/or compensation of unlicensed persons), 10145 (trust fund handling), 10146 (deposit of trust funds into trust account), 10159.2 (broker supervision), 10176(e) (commingling), 10177(d) (willful disregard of real estate law) and/or 10177(g) (negligence) and 10177(h) (reasonable broker supervision) of the California Business and Professions Code ("the Code"), and Sections 2725 (broker supervision), 2831 (maintenance of trust funds), 2832 (trust fund handling), 2835 (commingling) and 2970 (submission of advance fee materials) of the California Code of Regulations ("the Regulations").

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 Respondents.

FINDINGS OF FACT

1

On April 20, 2012, Tricia D. Sommers 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 April 20, 2012.

On November 14, 2012, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent SPIRIT INTERNATIONAL, INC. and Respondent SALLY ANN RAYMOND's default was entered herein.

2

SPIRIT INTERNATIONAL, INC. ("SPIRIT") is presently licensed and/or has license rights under the Code as a corporate real estate broker.

3

SALLY ANN RAYMOND ("RAYMOND") is presently licensed and/or has license rights as a real estate broker. RAYMOND is also the designated broker/officer for Respondent SPIRIT.

4

MAXINE ROSE ANDERSON ("ANDERSON") is presently licensed and/or has license rights under the Code as a real estate salesperson. At all time relevant, ANDERSON was an employee of SPIRIT.

5

At all times relevant, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code (broker defined – property management/collection of rent), including 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 solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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On or about May 3, 2011, an audit was conducted of SPIRIT at its main office located at 7880 Exchange Plaza, La Jolla, California, where the auditor examined the records for the period of October 1, 2008, through March 31, 2011 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, SPIRIT accepted or received funds in trust (trust funds) in the course of the property management activities described in Paragraph 5, above, and deposited or caused the funds to be deposited into a bank accounts maintained by SPIRIT, including:

Trust Account #1

Wells Fargo Bank
P.O. Box 6995
Portland, Oregon 97228-6995
Account No.: XXXXXX2456

Account Name: Spirit International Inc.
dba Exclusive Properties Trust

Signatories: Sally Ann Raymond, D.O.

Bank Account #1

Comerica Bank
1802 Garnet Avenue
San Diego, CA 92109-3352
Account No.: XXXXXX1480

Account Name: Maxine Rose Anderson

Signatories: Maxine Rose Anderson, RES

Thereafter, from time-to-time, Respondents made disbursements of said trust funds.

In the course of the activities described in Paragraph 5, above, in connection with the collection and disbursement of trust funds:

- (a) ANDERSON accepted trust funds in the amount of \$5,200 on behalf of SPIRIT and failed to deliver those funds to her broker or deposit the funds into a trust account in the name of her broker.

- (b) On or about May 19, 2009, ANDERSON deposited \$5,200 of trust funds into Bank Account #1.
- (c) SPIRIT failed to maintain a record of all trust funds deposited into and disbursed from Bank Account #1.
- (d) SPIRIT failed to deposit trust funds it received from clients into a trust account.

Those acts and/or omissions were done with the awareness and approval of RAYMOND.

9

On or about April 21, 2009, ANDERSON, while licensed as a salesperson for and while representing SPIRIT, entered into a lease agreement with tenants for Lee S.'s real property located at 719 Nantasket, Mission Beach, California. On or about April 22, 2009, Lee S. signed a property management agreement retaining Exclusive Properties/Boutique Rentals and ANDERSON to provide property management services for the Nantasket property. On or about May 4, 2009, ANDERSON obtained the tenants' signatures on lease agreement forms provided by Lee S. and collected \$5,200 from the tenants of the Nantasket property. ANDERSON failed to give those funds to SPIRIT or RAYMOND. Instead, ANDERSON deposited the \$5,200 into Bank Account #1, a non-trust account. On or about May 16, 2009, ANDERSON sent a check for \$2365 to Lee S. along with a letter indicating she was keeping \$2835 of the \$5,200 for her commission on the Nantasket property lease agreement. Those acts and/or omissions were done with the awareness and approval of RAYMOND.

10

After collecting \$5,200 from the tenants residing in the Nantasket property, as set forth in Paragraph 9, above, SPIRIT and ANDERSON retained \$2,835 of those funds as an advance for property management services that commenced on September 1, 2009. SPIRIT and RAYMOND failed to submit the advance fee materials used in its property management activities to the Department for review and approval prior to their use. Those acts and/or omissions were done with the awareness and approval of RAYMOND.

11

ANDERSON, while licensed in the employ of and acting as a representative of SPIRIT, used the fictitious business name of "Boutique Rentals" in conducting real estate activities without first obtaining a license bearing that fictitious business name from the Department. Those acts and/or omissions were done with the awareness and approval of RAYMOND.

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As the designated broker officer for SPIRIT, RAYMOND was responsible for the supervision and control of the activities conducted on behalf of SPIRIT by its officers and employees. RAYMOND failed to exercise reasonable supervision and control over the property management activities of SPIRIT. In particular, RAYMOND permitted, ratified and/or caused the conduct described in Paragraphs 8 through 11, 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, procedures and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against SPIRIT exists with reference to the facts set out in Paragraphs 8 through 12, above, for violation of Sections 10085, 10137, 10145, 10146, 10176(e), 10177(d) and/or 10177(g), 10177(h) the Code, and Sections 2831, 2832, 2835 and 2970 of the Regulations.

2

Cause of disciplinary action against RAYMOND exists with reference to the facts set out in Paragraphs 8 through 12, above, for violation of Sections 10159.2, 10177(d) and/or 10177(g), and 10177(h) of the Code and Section 2725 of the Regulations.

3

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

ORDER

All licenses and licensing rights of Respondents SPIRIT INTERNATIONAL, INC. and SALLY ANN RAYMOND 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 _____

MAY 28 2013

DATED: _____

May 9, 2013

REAL ESTATE COMMISSIONER

