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FILED

SEP 14 2015

BUREAU OF REAL ESTATE

By 

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation against

No. H-04743 SD

12 ALAN CRAIG TOWNSEND,
doing business as Rancho Mesa Properties,
13 Respondent.

ACCUSATION

14
15 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the
16 Bureau of Real Estate ("Bureau") of the State of California, for cause of Accusation against
17 ALAN CRAIG TOWNSEND, doing business as Rancho Mesa Properties ("Respondent"),
18 alleges as follows:

19 1.

20 The Complainant, Veronica Kilpatrick, acting in his official capacity as a
21 Supervising Special Investigator, makes this Accusation against Respondent.

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Flag

1 2.

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

4 3.

5 All references to the "Code" are to the California Business and Professions Code and all
6 references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

7 4.

8 From April 16, 1987, through the present, Respondent has been licensed by the Bureau as
9 a real estate broker, License ID 00846319. Respondent was licensed as a real estate salesperson
10 from approximately April 29, 1983 to April 15, 1987. At all times relevant herein, Respondent
11 was licensed to do business as Rancho Mesa Properties.

12 5.

13 From December 5, 2011, through the present, Daniel Charles Zanoni ("Zanoni") has been
14 licensed by the Bureau as a real estate broker, License ID 01863411. At all times relevant
15 herein, Zanoni was a broker-associate of Respondent.

16 6.

17 Marjorie A. Townsend has never been licensed by the Bureau in any capacity.

18 7.

19 Audit SD 140019

20 On or about January 30, 2015, the Bureau completed a routine audit examination of the
21 books and records of Respondent's property management activities which require a real estate
22 license pursuant to Code section 10131(b). The audit examination covered a period of time from
23 January 1, 2013 to October 31, 2014. The audit examination revealed violations of the Code and
24 the Regulations as set forth in the following paragraphs, and more fully discussed in Audit

1 Report SD 140019 and the exhibits and work papers attached to said audit report.

2 8.

3 An entrance conference was held on November 12, 2014 with Respondent. Respondent
4 and Zanoni provided Respondent's property management records to the auditor for examination.
5 During the audit period, Respondent employed four real estate licensees and maintained two
6 branch offices. Respondent managed 284 properties with 364 units for 233 property owners.
7 Respondent received management fees ranging from six percent to ten percent of rents collected,
8 and charged lease execution fees of \$150.00 per unit and \$100.00 renewal fees. Respondent
9 charged late fees from \$70.00-\$80.00 on new leases and an inspection fee of \$85.00 every six
10 months. Respondent handled trust funds of approximately \$5,513,091.00 in 2014.

11 9.

12 According to Respondent, he maintained the following three bank accounts for the
13 handling of the receipts and disbursements of property management activities during the audit
14 period:

15 Bank Account #1 (B/A 1)

16 Bank: California Bank and Trust

17 Account Name: Alan Craig Townsend dba Rancho Mesa Properties

18 Account #: xxxxx6451

19 Signers: Respondent and Marjorie Townsend

20 # of signatures required: 1

21 Description: B/A 1 is as an operating account for multiple beneficiaries and was used for
22 handling receipts and disbursements related to Respondent's property management
23 activities.

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Bank account #2 (B/A 2)

Bank: California Bank and Trust

Account Name: Alan Craig Townsend dba Rancho Mesa Properties

Account #: xxxxx6881

Signers: Respondent and Marjorie Townsend

of signatures required: 1

Description: B/A 2 was used to handle security deposit receipts and disbursements for multiple beneficiaries related to Respondent's property management activities.

Bank account #3 (B/A 3)

Bank: Union Bank

Account Name: Alan Craig Townsend dba Rancho Mesa Properties

Account #: xxxxx8231

Signers: Respondent and Marjorie Townsend

of signatures required: 1

Description: B/A 3 is a single beneficiary account and used for handling receipts and disbursements related to Respondent's property management activities.

Violations

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In the course of its property management activities during the audit examination period described above in Paragraph 7, Respondent acted in violation of the Code and the Regulations as follows:

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1 (a). Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for Multiple
2 Beneficiaries

3 A bank reconciliation was prepared for B/A 1 as of October 31, 2014. The adjusted bank
4 balance was compared to the total balance of the separate beneficiary records (accountability)
5 and showed a minimum shortage of <\$92,345.31> as of October 31, 2014, in violation of Code
6 section 10145 and Regulation 2832.1.

7 The adjusted bank balance for B/A 1 on October 31, 2014 was \$93,312.66. The
8 minimum accountability for B/A 1 on October 31, 2014 was <\$185,657.97>. The shortage was
9 cause by negative property balances of <\$70,422.72> and an unidentified shortage of
10 <\$21,922.59>, totaling <\$92,345.31>.

11 Respondent failed to provide any evidence that the owners of the trust funds had given
12 their written consent to allow Respondent to reduce the balance of the funds in B/A 1 to an
13 amount less than the existing aggregate trust fund liabilities.

14 (b). Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for Multiple
15 Beneficiaries

16 A bank reconciliation was prepared for B/A 2 as of as of October 31, 2014. The adjusted
17 bank balance was compared to the combined total balance of the separate beneficiary records
18 (accountability) and showed a total fund shortage of <\$10,585.65> as of October 31, 2014, in
19 violation of Code section 10145 and Regulation 2832.1.

20 The shortage was cause by negative property balances of <\$713.51>,
21 commingling/conversion of trust funds of <\$7,056.96> and an unidentified shortage of
22 <\$2,815.18>, totaling <\$10,585.65>.

23 Respondent transferred trust funds totaling <\$7,056.96> from B/A 2 to his general
24 account (California Bank & Trust Account #XXXX9696) from January 17, 2013 to August 27,

1 2013 and commingled trust funds with his personal funds in said account. \$4,000 of the
2 <\$7,056.96> commingled funds were converted when the balance of the GA was below the
3 amount of the commingled funds on January 17, 2013.

4 Respondent failed to provide any evidence that the owners of the trust funds had given
5 their written consent to allow Respondent to reduce the balance of the funds in B/A 2 to an
6 amount less than the existing aggregate trust fund liabilities.

7 (c). Code Section 10145 and Regulation 2832. Trust Fund Handling

8 Based on the bank signature cards for B/A 1, B/A 2, and B/A 3, Respondent used the
9 bank accounts to hold trust funds although the accounts were not designated as trust accounts in
10 Respondent's name as trustee, in violation of Code Section 10145 and Regulation 2832.

11 (d). Code Section 10145 and Regulation 2831. Trust Fund Records To Be Maintained

12 Based on the examination of Respondent's records, the records of all trust funds received
13 and disbursed (control records) that were maintained by Respondent for his property
14 management activities for B/A 1 and B/A 2 were incomplete and/or inaccurate, in violation of
15 Code section 10145 and Regulation 2381.

16 (e). Code Section 10145 and Regulation 2831.1. Separate Records for Each Beneficiary
17 or Transaction.

18 Respondent failed to maintain complete and/or accurate, separate records for each
19 beneficiary or transaction for B/A 1 and B/A 2, in violation of Code section 10145 and
20 Regulation 2831.1.

21 (f). Code Section 10145 and Regulation 2831.2. Bank Account Reconciliation

22 During the audit period, Respondent failed to maintain an accurate monthly reconciliation
23 comparing the balance of all separate beneficiary or transaction records (separate records) to the
24

1 balance of all trust funds received and disbursed (control record) for B/A 1 and B/A 2, in
2 violation of Code section 10145 and Regulation 2831.2.

3 (g). Code Section 10145 and Regulation 2834. Bank Account Withdrawal

4 Based on bank account signature cards examined, Respondent allowed Marjorie
5 Townsend, an unlicensed person, to be a signer for B/A 1, B/A 2, and B/A 3, which held trust
6 funds, and Respondent did not have fidelity bond coverage for those bank accounts, in violation
7 of Code Section 10145 and Regulation 2834.

8 (h). Code Sections 10145, 10176(e), Regulation 2832 Handling of Trust Funds/
9 Commingling

10 During the audit period, trust funds were transferred from Respondent's B/A 1 to
11 Respondent's general account #XXXX6961 ("G A") totaling \$7,056.96 between January 2013 to
12 August, 2013, and said trust funds were commingled with Respondent's personal funds in the
13 general account. Examples of transfers include \$4,000 on January 17, 2013, \$2,200 on August 8,
14 2013, and \$856.96 on August 27, 2013. Said transfers are in violation of Code Sections 10145,
15 10176(e) and Regulation 2832.

16 (i). Code Sections 10145/10176(i) or 10177(j) Handling of Trust Funds/Unauthorized
17 Disbursements/Conversion of Funds/Dishonest Dealing

18 During the audit period, trust funds were transferred from Respondent's B/A 2 to
19 Respondent's general account G A totaling \$7,056.96 between January 2013 to August, 2013,
20 and said trust funds were commingled with Respondent's personal funds and \$4,000 were
21 converted when the balance of G A was below the amount of the funds being transferred.
22 Examples of transfers include \$4,000 on January 17, 2013, \$2,200 on August 8, 2013, and
23 \$856.96 on August 27, 2013. Said transfers are in violation of Code Sections 10145 and
24 10176(i) or 10177(j).

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The violations noted above in Paragraph 10 constitute cause for the suspension or revocation of the real estate license and license rights of Respondent under the provisions of Code Sections 10177(d), 10176(e), 10176(i), 10177(j), and/or 10177(g).

12.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, 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/or license rights of Respondent ALAN CRAIG TOWNSEND, doing business as Rancho Mesa Properties under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.

Dated at San Diego, California this 24th day of August, 2015.


VERONICA KILPATRICK
Supervising Special Investigator

cc: Alan Craig Townsend
Veronica Kilpatrick
Sacto
Audits/Chona Picayo