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BUREAU OF REAL ESTATE

By John Quint

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against

LINDA LOUISE BELL and
JEFFREY BRIAN NELSON,

Respondents.

No. H – 04753 SD

ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Bureau of Real Estate ("Bureau") of the State of California, for cause of Accusation against LINDA LOUISE BELL and JEFFREY BRIAN NELSON (collectively "Respondents"), alleges as follows:

1.

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

2.

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

1 3.

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

4 4.

5 From May 22, 2015 through the present, Respondent LINDA LOUISE BELL ("BELL")
6 has been licensed by the Bureau as a real estate broker, License ID 00640633. Respondent was
7 licensed as a real estate salesperson from approximately May 9, 1978, through May 21, 2015. At
8 all times relevant herein, Respondent BELL was not licensed to do business under any fictitious
9 business name, including Panda Realty. From September 12, 2012 through April 30, 2012,
10 BELL was a real estate salesperson licensed under the employment of Respondent JEFFREY
11 BRIAN NELSON.

12 5.

13 From April 6, 2009, through the present, JEFFREY BRIAN NELSON ("NELSON") has
14 been licensed by the Bureau as a real estate broker, License ID 01261432. At all times relevant
15 herein, Respondent NELSON was not licensed to do business under any fictitious business
16 name, including Panda Realty.

17 6.

18 Arthur Ray Bell was first licensed as a real estate broker by the Bureau on May 25, 1984,
19 License ID 00381203. Arthur Ray Bell was formerly licensed to do business as Panda Realty,
20 Era Panda Realty, and AB Mortgage. Arthur Ray Bell passed away on July 27, 2009. Arthur
21 Ray Bell's broker license expired on May 24, 2012. Arthur Ray Bell was married to Respondent
22 BELL.

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1 FIRST CAUSE OF ACCUSATION
2 (Unlicensed/Unsupervised Activity)
3 (Respondents BELL & NELSON)

4 7.

5 On or about September 19, 2012, Respondents NELSON and BELL entered into an
6 independent contractor agreement where BELL became an agent associate licensee of broker
7 NELSON. The independent contractor agreement included a provision noting that BELL wished
8 to work from an office location at: 13715 Poway Road, Poway, California 92064. Broker
9 NELSON agreed to add said address as a branch office once NELSON was licensed to do
10 business as "Panda Realty" by the Bureau. From on or about September 19, 2012, through
11 March 6, 2015, Respondent BELL paid Respondent NELSON monthly fees averaging \$2,250
12 via checks from an account no. XXXXXX5656 in the name of Panda Realty with an address of
13 13715 Poway Road, Poway, California 92064 printed on the checks.

14 8.

15 Respondent NELSON was never licensed to engage in real estate activities from the
16 office location at 13715 Poway Road, Poway, California 92064. Respondent NELSON was
17 never licensed to do business as Panda Realty.

18 9.

19 During a period of time that includes the prior three years, Respondent BELL has
20 operated a property management business and offered to or performed property management
21 services for others which require a real estate broker license under Code section 10131,
22 subdivision (b). Respondent BELL engaged in property management activities while using the
23 unlicensed fictitious name, Panda Realty, from an unlicensed branch or main office address of
24 13715 Poway Rd. Suite A, Poway, California 92064.

10.

Respondents BELL's and NELSONS's conduct, acts and/or omissions as set forth above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10165, 10177(d), 10177(h), and/or 10177(g) for violation of Code Sections 10159.5, 10130, 10163, and Regulations 2731, 2715, and 2710(c).

11.

Respondent NELSON's conduct, acts and/or omissions as set forth above, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10177(d), 10177(h), and/or 10177(g) for violation of Regulation 2725.

SECOND CAUSE OF ACCUSATION

(Audit SD 140033)

(Respondents NELSON & BELL)

12.

There is hereby incorporated in this Second, separate and distinct Second Cause of Accusation, all of the allegations contained in Paragraphs 1 through 11, with the same force and effect as if herein fully set forth.

13.

On or about June 30, 2015, the Bureau completed a routine audit examination of the books and records of Respondent NELSON's real estate activities which require a real estate license pursuant to Code section 10131. The audit examination covered a period of time from January 1, 2012 to December 31, 2014. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report SD 140033 and the exhibits and work papers attached to said audit report.

14.

During the audit period, Respondent BELL, while doing business as Panda Realty, managed approximately 150 one-to-four family residential units or properties for 140 property owners. Respondent BELL received approximately \$350,000 in rental receipts during the audit period. Panda Realty received a management fee of five percent to eight percent of monthly collected rents.

15.

According to Respondent BELL, she maintained the following bank account for the handling of the receipts and disbursements of property management activities during the audit period:

Bank Account #1 (B/A 1)

Bank: Wells Fargo Bank, N.A.

Account Name: Panda Realty

Account #: xxxxx5878

Signers: Respondent BELL

of signatures required: 1

Description: B/A 1 was used as to deposit rents and security deposits collected from tenants. Disbursements from B/A 1 were payments for expenses related to properties manages, owner remittances, and management fees. B/A 1 was opened on April 6, 2007, based on the bank signature card of that same date.

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1 Violations

2 16.

3 In the course of its property management activities during the audit examination period
4 described above in Paragraph 15, Respondents acted in violation of the Code and the Regulations
5 as follows:

6 A) Issue 1. Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for
7 Multiple Beneficiaries

8 A bank reconciliation was prepared for B/A 1 as of December 31, 2014. B/A 1 had a
9 minimum shortage of <\$182,480.98> as of December 31, 2014, in violation of Code section
10 10145 and Regulation 2832.1.

11 The shortage was caused by minimum negative property balances of <\$21,757.48>,
12 unreimbursed bank fees of <\$7,412.75>, minimum unauthorized disbursements of <\$739.26>,
13 minimum unearned fees/excess management fees charged of <28,122.85>, and an unidentified
14 causes of shortage of <\$124,448.64>.

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

18 As of May 30, 2015, the minimum shortage of \$182,480.98 had been cured by
19 Respondent BELL.

20 B) Issue 3. Code Section 10145 and Regulation 2831. Trust Fund Records To Be
21 Maintained *(Issue 2 intentionally skipped).

22 Based on the examination of records, the records of all trust funds received and disbursed
23 (control records) that were maintained by Respondents for B/A 1 were incomplete and/or
24 inaccurate, in violation of Code section 10145 and Regulation 2831. Some trust fund

1 disbursements were not accurate and some control records did not reflect the date trust funds
2 were received or provide an accurate running daily balance. Examples of the properties for
3 which incomplete or inaccurate records were maintained include, without limitation: 9911
4 Caminito Cuadro and 2255 Johnston Road.

5 C) Issue 4. Code Section 10145 and Regulation 2831.1. Separate Records for Each
6 Beneficiary or Transaction.

7 Respondents failed to maintain complete and/or accurate, separate records for each
8 beneficiary or transaction for B/A 1, in violation of Code section 10145 and Regulation 2831.1.
9 Based on an examination of records, the separate records did not reflect an accurate date of
10 deposit for trust funds, check number disbursements, or running daily balance. Some separate
11 records for each beneficiary had to be reconstructed including, but not limited to, the following
12 properties: 11872 Caminito Corrientes, 11895 Bridge Way, 12357 Reata Court, 1805 Idaho
13 Avenue, 1753 Promenade Circle, and 2255 Johnston Road.

14 D) Issue 5. Code Section 10145 and Regulation 2831.2. Bank Account Reconciliation

15 During the audit period, Respondents failed to maintain an accurate monthly
16 reconciliation comparing the balance of all separate beneficiary or transaction records (separate
17 records) to the balance of all trust funds received and disbursed (control record) for B/A 1, in
18 violation of Code section 10145 and Regulation 2831.2.

19 E) Issue 6. Code Section 10145 and Regulation 2834. Bank Account Withdrawal

20 Based on an examination of the bank account signature card for B/A 1, Respondent
21 NELSON was not a signer and Respondent BELL was the sole signer for B/A 1 as owner of
22 Panda Realty, in violation of Code Section 10145 and Regulation 2834.

23 ///

1 F) Issue 7. Code Sections 10145/10176(i) or 10177(j) Handling of Trust

2 Funds/Unauthorized Disbursements

3 Based on an examination of B/A 1's bank statements, cancelled checks, invoices and
4 control records provided for the audit, there were unreimbursed bank charges of \$7,412.75 and
5 unauthorized expenses/minimum excess management fees of \$28,862.11 taken from B/A 1, in
6 violation of Code Sections 10145 and 10176(i) or 10177(j).

7 G) Issue 8. Code Section 10145 and Regulation 2832 - Trust Fund Handling/Trust

8 Account Designation

9 Based on the bank signature card for B/A 1, the bank accounts was used to hold trust
10 funds although the account was not designated as a trust account in Respondent NELSON's
11 name as trustee, in violation of Code Section 10145 and Regulation 2832.

12 H) Issue 9. Code Section 10163 and Regulation 2715 – Branch Offices/Business and

13 Mailing Addresses

14 Respondent BELL performed acts which require a real estate broker license from an
15 unlicensed office location at: 13715 Poway Road, Suite A, Poway, California 92064, in violation
16 of Code Section 10163 and Regulation 2715.

17 I) Issue 10. Code Section 10159.5 and Regulation 2731 – Use of Unlicensed Fictitious

18 Business Name

19 During the audit period, Respondents used the unlicensed fictitious business name,
20 "Panda Realty" to perform activities including, but not necessarily limited to property
21 management services, that require a real estate broker license without first obtaining a license to
22 do business under said fictitious name from the Bureau, in violation of Code section 10159.5 and
23 Regulation 2731.

1 J) Issue 11. Code Section 10177(h) and Regulation 2725 – Broker Supervision

2 During the period of time that Respondent BELL was licensed under the employment of
3 broker Respondent NELSON, Respondent NELSON failed to exercise reasonable supervision
4 and control over the real estate activities conducted by Respondent BELL at 13715 Poway Road,
5 Suite A, Poway, California 92064, to secure full compliance with the Real Estate Law and
6 Regulations, in violation of Code section 10177(h) and Regulation 2725.

7 K) Issue 12. Code Section 10145(c) – Handling of Trust Funds

8 During the audit period, Respondent BELL accepted trust funds in the form of rent
9 receipts and security deposits from tenants and failed to deliver said trust funds to her employing
10 broker at the time or deposit said trust funds in accordance with Code section 10145, in violation
11 of Code section 10145(c).

12 17.

13 The violations noted above in Paragraph 16 constitute cause for the suspension or
14 revocation of the real estate licenses and license rights of Respondents under the provisions of
15 Code Sections 10177(d), 10177(h), 10176(i), 10177(i), and/or 10177(g).

16 18.

17 Code Section 10148(b) provides, in pertinent part the Commissioner shall charge a real
18 estate broker for the cost of any audit, if the commissioner has found in a final decision
19 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
20 or rule of the commissioner interpreting said section.

21 19.

22 Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a
23 disciplinary proceeding before the Bureau of Real Estate, the Commissioner may request the
24

1 administrative law judge to direct a licensee found to have committed a violation of this part to
2 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
4 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
5 against all licenses and/or license rights of Respondents LINDA LOUISE BELL and JEFFREY
6 BRIAN NELSON under the Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code), for the cost of investigation and enforcement as permitted by law, and for
8 such other and further relief as may be proper under other provisions of law.

9 Dated at San Diego, California this 22 day of October, 2015.

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11 
12 VERONICA KILPATRICK
13 Supervising Special Investigator
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17

18 cc: Linda Louise Bell
19 Jeffrey Brian Nelson
20 Veronica Kilpatrick
21 Sacto
22 Audits/Godswill Keraoru
23
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