

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

FILED

JAN 15 2016

BUREAU OF REAL ESTATE

By John Smith

* * * *

In the Matter of the Accusation of) CALBRE NO. H-04753 SD
)
LINDA LOUISE BELL and)
JEFFREY BRIAN NELSON,)
)
)
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 December 11, 2015, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension 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 Respondent.

FINDINGS OF FACT

1.

On October 22, 2015, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the State of California. On November 12, 2015, the Accusation, Statement to Respondent, and Notice of Defense were mailed by regular mail and by certified mail, return receipt requested, to Respondent's last known mailing address.

2.

On December 11, 2015, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent, LINDA LOUISE BELL's default was entered herein. Respondent JEFFREY BRIAN NELSON filed a Notice of Defense.

3.

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 Code¹).

4.

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

5.

From April 6, 2009, through the present, JEFFREY BRIAN NELSON ("NELSON") has been licensed by the Bureau as a real estate broker, License ID 01261432.

6.

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

7.

On or about September 19, 2012, Respondents NELSON and BELL entered into an independent contractor agreement where BELL became an agent associate licensee of broker NELSON. The independent contractor agreement included a provision noting that BELL wished to work from an office location at: 13715 Poway Road, Poway, California 92064.

¹ All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

8.

Respondent BELL was not licensed to engage in real estate activities from the office location at 13715 Poway Road, Poway, California 92064. Respondent BELL was not licensed to do business as Panda Realty.

9.

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

(Audit SD 140033)

10.

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.

11.

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.

12.

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.

In the course of its property management activities during the audit examination period described above in Paragraph 11, Respondent BELL acted in violation of the Code and the Regulations as follows:

A) Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for Multiple Beneficiaries

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

Respondent BELL failed to provide any evidence that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in B/A 1 to an amount less than the existing aggregate trust fund liabilities. As of May 30, 2015, the minimum shortage of \$182,480.98 had been cured by Respondent BELL.

B) Code Section 10145 and Regulation 2831. Trust Fund Records To Be Maintained

Based on the examination of records, the records of all trust funds received and disbursed (control records) that were maintained by Respondent BELL for B/A 1 were incomplete and/or inaccurate, in violation of Code section 10145 and Regulation 2831. Some trust fund disbursements were not accurate and some control records did not reflect the date trust funds were received or provide an accurate running daily balance. Examples of the properties for which incomplete or inaccurate records were maintained include, without limitation: 9911 Caminito Cuadro and 2255 Johnston Road.

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

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

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

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

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

Based on an examination of the bank account signature card for B/A 1, Respondent BELL was the sole signer for B/A 1 as owner of Panda Realty.

F) Code Sections 10145/10176(i) or 10177(j) Handling of Trust Funds/Unauthorized Disbursements

Based on an examination of B/A 1's bank statements, cancelled checks, invoices and control records provided for the audit, there were unreimbursed bank charges of \$7,412.75 and unauthorized expenses/minimum excess management fees of \$28,862.11 taken from B/A 1.

G) Code Section 10145 and Regulation 2832 - Trust Fund Handling/Trust Account Designation

Based on the bank signature card for B/A 1, the bank account was used to hold trust funds although the account was not designated as a trust account in Respondent NELSON's name as trustee.

H) Code Section 10163 and Regulation 2715 - Branch Offices/Business and Mailing Addresses

Respondent BELL performed acts which require a real estate broker license from an unlicensed office location at: 13715 Poway Road, Suite A, Poway, California 92064.

I) Code Section 10159.5 and Regulation 2731 - Use of Unlicensed Fictitious Business Name

During the audit period, Respondent BELL used the unlicensed fictitious business name, "Panda Realty" to perform activities including, but not necessarily limited to property management services, that require a real estate broker license without first obtaining a license to do business under said fictitious name from the Bureau.

J) Code Section 10145(c) - Handling of Trust Funds

During the audit period, Respondent BELL accepted trust funds in the form of rent receipts and security deposits from tenants and failed to deliver said trust funds to her employing broker at the time or deposit said trust funds.

14.

The Bureau's audit costs for audit SD 140033 totaled \$10,430.69. As of December 10, 2015, the Bureau has incurred investigation costs for this matter totaling \$5,816.90 and enforcement costs totaling \$1,263.80.

DETERMINATION OF ISSUES

1.

Respondent BELL's conduct, acts and/or omissions as set forth above in Findings of Fact, Paragraphs 7 through 9, constitute grounds for the suspension or revocation of the license and license rights of Respondent LINDA LOUISE BELL pursuant to Code Sections 10165 and 10177, subdivision (d), for violation of Code Sections 10159.5, 10130, 10163, and Regulations 2731, 2715, and 2710(c).

2.

The violations noted above in Findings of Fact, Paragraph 13, constitute cause for the suspension or revocation of the real estate license and license rights of Respondent LINDA LOUISE BELL under the provisions of Code Sections 10176(i) and 10177, subdivision (d), for violation of 10145, 2832.1, 2831, 2831.1, 2831.2, 2834, and 2832.

3.

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

4.

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

ORDER

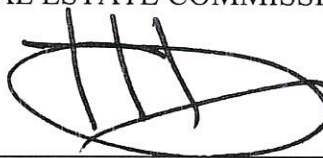
The license and license rights of Respondent LINDA LOUIE BELL under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

FEB 04 2016

This Decision shall become effective at 12 o'clock noon on

DATED: DECEMBER 31, 2015.

REAL ESTATE COMMISSIONER

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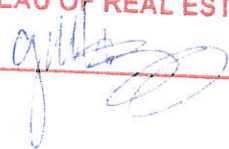
By: JEFFREY MASON
Chief Deputy Commissioner

Bureau of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, California 90013-1105

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By 

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STATE OF CALIFORNIA

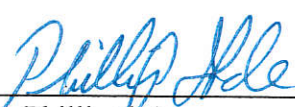
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In the Matter of the Accusation of) CalBRE No. H-04753 SD
)
LINDA LOUISE BELL and)
JEFFREY BRIAN NELSON,)
) DEFAULT ORDER
)
Respondents.)

Respondent, LINDA LOUISE BELL, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED 12/9/2015.

REAL ESTATE COMMISSIONER


By: Phillip Inde
Regional Manager