

FILED

NOV 07 2018

DEPT. OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE¹

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation against	)	DRE No. H-05088 SD
	)	
MICHAEL J. ZAU, REALSMART, INC., and	)	As to Respondent MICHAEL J. ZAU ONLY
BENHAM BRASHER VAN GAASBEEK,	)	
individually and as designated officer for	)	
Realsmart, Inc.,	)	
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 October 11, 2019, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent MICHAEL J. ZAU ("Respondent ZAU"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses and/or license rights pursuant to the Real Estate Law, Part I of Division 4, of the Business and Professions Code² for violations of sections 10130, 10137, 10176(a), and 10177(j).

Pursuant to Government Code section 11521, the Department of Real Estate ("Department") may order reconsideration of this Decision on petition of any party. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by section 11522 of the Government Code. A copy of sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent ZAU.

¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

² All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations.

FINDINGS OF FACT

1.

On August 14, 2019, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the State of California. On August 28, 2019, and September 12, 2019, the Accusation, Statement to Respondent, and Notice of Defense were mailed by regular mail and by certified mail, return receipt requested, to the last known mailing addresses for Respondents ZAU. The certified mailing to Respondent ZAU was delivered on September 26, 2019.

2.

On October 11, 2019, no Notice of Defense having been filed herein within the time prescribed by section 11506 of the Government Code, Respondent ZAU's default was entered herein.

3.

Respondent ZAU is licensed and has license renewal rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code ("Code")).

4.

Respondent ZAU has been licensed by the Department as a real estate salesperson, License ID 01262164 from September 21, 2000 through the present.

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on August 28 2019, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

1.

Cause for disciplinary action against Respondent ZAU exists for violations of Code sections 10130, 10137 which constitutes cause for discipline pursuant to Code section 10177(d).

2.

Additional cause for disciplinary action against Respondent ZAU exists for violations of pursuant to Code section 10176, subdivision (a) and Code section 10177, subdivision (j).

3.

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

4.

The Department incurred investigation costs of \$1,974.85 and enforcement costs of \$1,179.25 as of October 18, 2019 in this matter.

ORDER

All licenses and licensing rights of Respondents MICHAEL J. ZAU under the provisions of the Real Estate Law are revoked.

This Decision shall become effective at 12 o'clock noon on NOV 26 2019.

DATED: October 31, 2019.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER



1 Department of Real Estate
2 320 West Fourth St, Ste 350
3 Los Angeles, CA, 90013

FILED

OCT 11 2019

DEPT. OF REAL ESTATE
By R-POB

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) DRE NO. ***H-05088 SD***
12)
13 MICHAEL J ZAU,) DEFAULT ORDER
14) Respondent.)

15 Respondent MICHAEL J ZAU, having failed to file a Notice of Defense
16 within the time required by Section 11506 of the Government Code, is now in default. It is,
17 therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED OCT 11 2019.

19 DANIEL J. SANDRI
20 ACTING REAL ESTATE COMMISSIONER

21
22 By: 
23 JEFFREY OBOYSKI
24 Assistant Commissioner, Enforcement
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26
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