

FILED
APR 29 1982

BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Roshni R. Kalidin
Roshni R. Kalidin

In the Matter of the Accusation of)
ROBERT ARTHUR IMHOFF,)
Respondent.)

NO. H-5160 SF

N-17908

DECISION

The Proposed Decision dated March 30, 1982, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on MAY 19th, 1982.

IT IS SO ORDERED 4/29, 1982.

E. Lee Brazil
E. LEE BRAZIL
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
of:)	NO. H-5160 SF
)	
ROBERT ARTHUR IMHOFF)	N-17908
)	
Respondent.)	
<hr/>		

PROPOSED DECISION

This matter came on regularly for hearing before Philip V. Sarkisian, administrative law judge of the Office of Administrative Hearings, State of California, at San Francisco, California, on March 23, 1982. Joseph McGovern, counsel, Department of Real Estate, represented the complainant. Respondent Robert Arthur Imhoff appeared in person and was represented by Neil D. Isenberg, attorney at law. Oral and documentary evidence was introduced and the case was submitted.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

Robert Arthur Imhoff (hereinafter referred to as respondent) is presently licensed and has license rights under the Real Estate Law (part 1 of division 4 of the Business and Professions Code).

II

At all times mentioned herein, respondent was licensed by the Department of Real Estate of the State of California (hereinafter referred to as the Department) as a real estate broker in his individual capacity, dba Landmark Realty, and as an officer of Numenor Inc., a California corporation.

III

The complainant, Edward V. Chiolo, a deputy real estate commissioner of the State of California, acting in

his official capacity as such and not otherwise, made the accusation against respondent.

IV

On or about March 31, 1981, an investigative audit was made by the Department of books and records of Landmark Realty. It was ascertained by said audit that the trust liability of respondent as of March 31, 1981, for monies received while licensed as and while acting in the capacity of a real estate broker was in the aggregate amount of eight thousand four hundred sixty-two and 72/100 dollars (\$8,462.72).

V

It was further ascertained by said audit that respondent failed to retain all of said aggregate sum in his trust account. As of March 31, 1981, there was a trust fund deficiency and shortage in the amount of five thousand six hundred sixty and 60/100 dollars (\$5,660.60).

VI

Respondent's firm manages over 1500 apartment units in approximately 80 properties in the San Francisco area. Property management services are performed for numerous clients.

The shortage in question occurred as follows: respondent paid a large bill for renovation of several units belonging to a client. The bill was paid from the respondent's general trust account, into which rents from the managed properties are placed.

At the time respondent wrote the check to pay for renovations, although there was sufficient money in the trust account to cover the check, there was not sufficient money belonging to the client in respondent's trust account. Respondent wrote the check in anticipation of normal collection of rents from the client's tenants. The client subsequently collected rents directly from the tenants rather than having them paid to respondent. No person was injured as a result of this transaction as respondent eventually recovered all money due from his client to make up the trust shortage.

VII

There is no indication that respondent intended to defraud anyone or engage in any dishonest conduct. On the contrary, he acted in what he mistakenly believed was in the best interest of his client when he paid the bill. Respondent is now aware that it is improper and illegal to pay bills for clients from trusts funds when there is not

sufficient money of the particular client in the trust account at the moment the check is written and when to do so creates a shortage in the trust account. The effect of such conduct is to use funds of other clients for the benefit of the client whose trust balance is short.

VIII

Respondent has been active as a real estate broker for approximately eight (8) years. His firm employs sixty (60) people. There is no evidence of any other disciplinary action against respondent. Future violations of a similar nature are unlikely.


DETERMINATION OF ISSUES

Respondent has been guilty of acts and omissions in violation of section 10145 of the Business and Professions Code of the State of California and section 2832.1 of title 10 of the California Administrative Code. His acts and omissions constitute grounds for disciplinary action under the provisions of 10177, subdivision (d), of the Business and Professions Code.

ORDER

Respondent's license is suspended for sixty (60) days, provided execution of the entire suspension is stayed and respondent is placed on probation for a period of one (1) year upon condition that he obey all laws and regulations governing his activities as a real estate broker. If respondent does not comply with the terms and conditions of probation, the real estate commissioner may, after notice and an opportunity for a hearing is afforded respondent, terminate his probation and reimpose all or any portion of the stayed suspension. If he does comply with the terms of probation, at the expiration of one year from the effective date of this decision, the stay shall become permanent.

DATED: March 30, 1982



PHILIP V. SARKISIAN
Administrative Law Judge

PVS:rem

1 JOSEPH McGOVERN, Counsel
2 DEPARTMENT OF REAL ESTATE
3 185 Berry Street
4 Room 5816
5 San Francisco, CA 94107
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7
8 (415) 557-3220

FILED
NOV 16 1981

DEPARTMENT OF REAL ESTATE

By Roshni R. Kalidia
Roshni R. Kalidia

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA
10 - - -

11 In the Matter of the Accusation of) No. H-5160 SF
12 ROBERT ARTHUR IMHOFF,)
13 Respondent.)
14 ACCUSATION

15 The complainant, EDWARD V. CHIOLO, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 accusation against ROBERT ARTHUR IMHOFF is informed and alleges
18 as follows:

19 I

20 That ROBERT ARTHUR IMHOFF (hereinafter referred to
21 as respondent) is presently licensed and/or has licenses rights
22 under the Real Estate Law (Part 1 of Division 4 of the Business
23 and Professions Code).

24 II

25 That at all times mentioned herein, respondent was
26 licensed by the Department of Real Estate of the State of
27 California (hereinafter referred to as the Department) as a

1 real estate broker in his individual capacity, dba Landmark
2 Realty, and as an officer of Numenor Inc., a California
3 corporation.

4 III

5 That the complainant, EDWARD V. CHIOLO, a Deputy
6 Real Estate Commissioner of the State of California, acting
7 in his official capacity as such and not otherwise, makes
8 this accusation against respondent and is informed and alleges
9 as follows:

10 IV

11 That on or about March 31, 1981, an investigative
12 audit was made by the Department of books and records of
13 Landmark Realty; that it was ascertained by said audit that the
14 trust liability of respondent as of March 31, 1981, for monies
15 received while licensed as and while acting in the capacity
16 of a real estate broker was in the aggregate amount of EIGHT
17 THOUSAND FOUR HUNDRED SIXTY-TWO and 72/100 DOLLARS (\$8,462.72).

18 V

19 That it was further ascertained by said audit that
20 respondent failed to retain all of said aggregate sum in
21 his trust account; that as of March 31, 1981, there was a
22 trust fund deficiency and shortage in the amount of FIVE
23 THOUSAND SIX HUNDRED SIXTY and 60/100 DOLLARS (\$5,660.60).

24 VI

25 That by reason of the facts as hereinabove alleged,
26 respondent was guilty of acts and omissions in violation of
27 Section 10145 of the Business and Professions Code of the

1 State of California (hereinafter referred to as the Code) and
2 Section 2832.1 of Title 10 of the California Administrative
3 Code, and said acts and omissions constitute grounds for
4 disciplinary action under the provisions of Section 10177(d)
5 of the Code.

6 WHEREFORE, complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against all licenses and license rights of respondent
10 under the Real Estate Law (Part 1 of Division 4 of the Business
11 and Professions Code) and for such other and further relief
12 as may be proper under other applicable provisions of law.
13

14 *Edward V. Chiole*

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16 EDWARD V. CHIOLO
17 Deputy Real Estate Commissioner

18 Dated at San Francisco, California
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this 16th day of November, 1981.