

JUN - 4 2004

By: Kathleen Contreras

* * *

ORDER GRANTING REINSTATEMENT OF LICENSE

I have considered the petition of Respondent and the evidence and arguments in support thereof including Respondent's record as a restricted licensee. Respondent has demonstrated to

1 my satisfaction that Respondent meets the requirements of law
2 for the issuance to Respondent of an unrestricted real estate
3 salesperson license and that it would not be against the public
4 interest to issue said license to Respondent.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's
6 petition for reinstatement is granted and that a real estate
7 salesperson license be issued to Respondent, if Respondent
8 satisfies the following conditions within nine months from the
9 date of this Order:

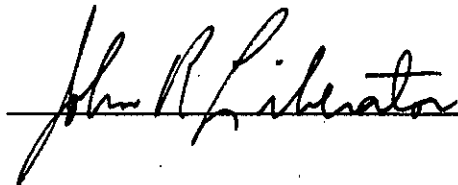
10 1. Submittal of a completed application and payment
11 of the fee for a real estate salesperson license.

12 2. Submittal of evidence of having, since the most
13 recent issuance of an original or renewal real estate license,
14 taken and successfully completed the continuing education
15 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
16 for renewal of a real estate license.

17 This Order shall be effective immediately.

18
19 DATED: May 17, 2004.

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21 JOHN R. LIBERATOR
22 Acting Real Estate Commissioner

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FILED
MAR 3 1 1986

DEPARTMENT OF REAL ESTATE

By Laurie A. Bain

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter the Accusation of) No. H-5528 SF
WILLIAM EDWARD BROWN,)
Respondent.)

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 17, 1986, a Decision was rendered herein revoking the real estate salesperson license of respondent but granting respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to respondent on July 3, 1986, and respondent has operated as a restricted licensee without cause for disciplinary action against him since that time.

On July 8, 1987, respondent petitioned for reinstatement of said real estate salesperson license and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of respondent and the

1 evidence and arguments in support thereof. Respondent has
2 demonstrated to my satisfaction that he meets the requirements
3 of law for the issuance to him of an unrestricted real estate
4 salesperson license and that it would not be against the public
5 interest to issue said license to him.

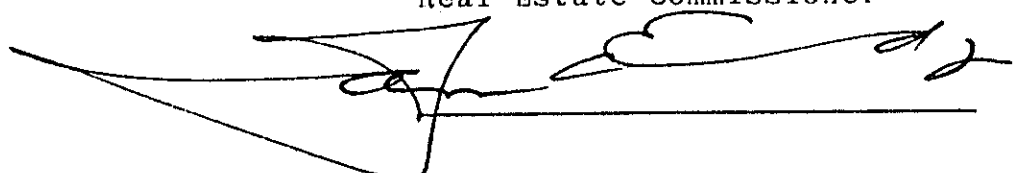
6 NOW, THEREFORE, IT IS ORDERED that respondent's
7 petition for reinstatement is granted and that a real estate
8 salesperson license be issued to him if he satisfies the
9 following conditions within six months from the date of this
10 order:

11 1. Submittal of a completed application and payment
12 of the fee for a real estate salesperson license.

13 2. Submittal of evidence of having, since the most
14 recent issuance of an original or renewal real estate license,
15 taken and successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
17 for renewal of a real estate license.

18 This Order shall be effective immediately.

19 DATED: 3-17-88
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21 JAMES A. EDMONDS, JR.
22 Real Estate Commissioner
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FILED
MAY 7 - 1986

DEPARTMENT OF REAL ESTATE

By Roshni R. Kalidin
Roshni R. Kalidin

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-5528 SF
WILLIAM EDWARD BROWN and)	N 25136
WILLIAM HENRY BROWN,)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On March 17, 1986, a Decision was rendered in the above-entitled matter. The Decision is to become effective at 12 o'clock noon on May 7, 1986.

On April 22, 1986, respondent WILLIAM EDWARD BROWN petitioned for reconsideration of the Decision of March 17, 1986.

I have given due consideration to the petition respondent WILLIAM EDWARD BROWN. I find no good cause to reconsider the Decision of March 17, 1986 and reconsideration is hereby denied.

IT IS SO ORDERED 5-1, 1986.


JAMES A. EDMONDS, JR.
Real Estate Commissioner

COPY

FILED
APR 04 1986

DEPARTMENT OF REAL ESTATE

By Mary A. Morello
Mary A. Morello

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
WILLIAM EDWARD BROWN)
and)
WILLIAM HENRY BROWN,)
Respondents.)

NO. H-5528 SF
N 25136

ORDER STAYING EFFECTIVE DATE

On March 17, 1986, a Decision was rendered in the
above-entitled matter to become effective April 7, 1986.

IT IS HEREBY ORDERED that the effective date of the
Decision of March 17, 1986 is stayed for a period of 30 days.

The Decision of March 17, 1986 shall become effective
at 12 o'clock noon on May 7, 1986.

DATED: April 4, 1986.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

By:

Edward V. Chio
EDWARD V. CHIOLO
Deputy Real Estate Commissioner

COPY

FILED
MAR 18 1986

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Mary A. Morello
Mary A. Morello

In the Matter of the Accusation of)
WILLIAM EDWARD BROWN)
and)
WILLIAM HENRY BROWN,)
Respondents.)

NO. H-5528 SF

N 25136

DECISION

The Proposed Decision dated February 13, 1986, 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 April 7, 1986.

IT IS SO ORDERED March 17, 1986.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

BY:

John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
WILLIAM EDWARD BROWN)
and)
WILLIAM HENRY BROWN,)
Respondents.)

NO. H-5528 SF

N 25136

PROPOSED DECISION

This matter came before Paul J. Doyle, Administrative Law Judge, State of California, Office of Administrative Hearings, on February 10, 1986, in San Francisco, California.

Joseph McGovern, Counsel, represented the complainant.

Respondents were present and were represented by their attorney W. Stephen Wilson of Wilson & Sher, One Kaiser Plaza, Suite 1385, Oakland, California 94612.

The matter was submitted and the following decision is hereby proposed and recommended for adoption:

FINDINGS OF FACT

First Cause

I

Respondent, William Henry Brown is presently licensed and/or has license rights under the Real Estate Law (hereinafter respondent Henry).

II

At all times herein mentioned, respondent Henry was licensed by the Department of Real Estate of the State of California as a real estate broker, dba Better Homes Realty. This license is scheduled to expire October 7, 1986.

III

William Edward Brown (hereinafter respondent Edward) is presently licensed and/or has license rights under the Real Estate Law.

IV

At all times herein mentioned respondent Edward was licensed by the Department as a real estate salesperson in the employ of respondent Henry. This license is scheduled to expire July 29, 1988.

V

Complainant, Norman G. Catalano, a Deputy Real Estate Commissioner of the State of California, acting only in his official capacity made the Accusation herein.

VI

Nancy Lee Pollock, et al. (hereinafter collectively referred to as Seller) were the owners of the real property commonly known as 466 - 41st Street, Oakland, California (hereinafter The Property). Prior to May 26, 1982, Seller, a licensed real estate broker, listed The Property for sale.

VII

On May 26, 1982, while licensed and acting in the capacity of a real estate salesperson, respondent Edward prepared a Real Estate Purchase Contract and Receipt for Deposit (hereinafter Deposit Receipt). This document contained an offer by Robert and Harriett Newell (hereinafter Buyer) to purchase The Property for Three Hundred Forty-Five Thousand Dollars (\$345,000). Respondent Edward received from Buyer a deposit of Two Thousand Dollars (\$2,000) in the form of a personal check (hereinafter The Deposit), payable to the order of Brown Realty, toward the purchase of The Property.

VIII

On May 26, 1982, respondent Edward presented the above-mentioned offer to Seller who, on the same date, executed a counteroffer for Three Hundred Fifty Thousand Dollars (\$350,000). Also on the same date Buyer accepted this counteroffer.

IX

Respondent Edward failed to place The Deposit into a trust account or into a neutral depository or into the hands of his principal.

X

On or about June 25, 1982, respondent Edward returned The Deposit to Buyer without the knowledge or consent of Seller. This particular sale of The Property was never consummated.

Second Cause

There is hereby incorporated into this second and separate cause of action all of the facts of the above First Cause of Action.

I

Respondent Henry failed to ascertain the whereabouts of the deposit money referred to in the First Cause of Action. Respondent Henry also failed to ascertain that respondent Edward returned The Deposit to Buyer without the knowledge or consent of Seller. (See, however, mitigation hereafter found in paragraphs 10 and 11.)

Supplemental Findings Re
First Cause

1. The two thousand dollar (\$2,000) check should have been deposited by respondent Edward immediately upon the acceptance of the counteroffer; and should have been deposited into a trust account, a neutral depository or into the possession of his principal. It was not.

2. There were certain contingencies in the contractual agreement to sell and purchase. The buyers waived such contingencies by on or about June 2, 1982. Again, there was a second chance to have correctly deposited the check. Respondent Edward, however, continued to retain possession of the same.

3. Respondent Edward and the buyers maintain that there was an agreement among the parties where all agreed that said \$2,000 check would remain uncashed until a further oral contingency (that of the legality of one of the units in the building to be sold) had been fulfilled. In fact, there was no such agreement, or knowledge of that agreement on the Sellers' behalf. And, had there been such an agreement it should have been reduced to a writing and have been executed (signed) by all the parties.

4. So also, prior to returning this \$2,000 check to the prospective Buyers it was incumbent upon respondent Edward's father (the broker who was the primary agent of the Buyers) as well as respondent Edward's duty to have all parties to the contract execute a written release. This was not done.

5. Sellers did not recover said \$2,000 nor any part thereof.

6. There never was any notice to the Sellers that the escrow would not be completed because of the prospective purchaser's dissatisfaction. Sellers only learned the sale would not be completed upon making inquiry of the escrow agent and being told by said agent that the \$2,000 check had never been deposited into escrow.

7. The correct and timely disposition of such good-faith money deposits is vital to transactions of this type.

8. The true, basic facts appear to be that Buyers decided to renege on the transaction because of a change in their financial circumstances--and respondent Edward (who represented Buyers in other real property transactions) simply and unilaterally let them.

Supplemental Findings Re Second Cause

9. Respondent Henry is the father of respondent Edward. He has been licensed in the real estate field in California for some 22 years--all without any known disciplinary action against his broker's license.

10. At the time of the prospective transaction set forth in the First Cause said father was recuperating from major surgery and only occasionally visited his real estate office. He basically left the business up to said son Edward, a licensed salesperson and to another son, Kevin, who is a licensed broker.

11. Despite his testimony seemingly to the contrary, it is here found that said father was not aware of the transactions found in the First Cause; nor was said father given the opportunity to initial the required documents to that transaction.

ADDITIONAL FINDING

There was a "willful" departure from the statutorily required standard of practice in the sense of the same being a volitional (as opposed to a nonvolitional) departure.

DETERMINATION OF ISSUES

I

Re First Cause: Respondent Edward violated Section 10145 of the California Business and Professions Code (hereafter "Code") and Regulations 2785(a)(10) and 2832 of Title 10 of the California Administrative Code. Grounds to impose discipline therefore exist under Section 10177(d) of said Code.

II

Re Second Cause: Grounds for the imposition of disciplinary action exists against respondent Henry under Section 10177(h) of the California Business and Professions Code. Due, however, to the above mitigatory facts such discipline should be as set forth in the following Order.

ORDER

Re Respondent William Edward Brown

1. The license and licensing rights of respondent William Edward Brown to act as a real estate salesperson in the State of California is hereby revoked.

2. A restricted real estate salesperson license shall, however, be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code, if respondent makes application therefor and pays to the Department the appropriate fee for this license not earlier than 30 days from the effective date of this decision.

3. Such restricted license shall be subject to all the provisions of Section 10156.7 of said Code as well as to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of said Code:

- A. This restricted license may be suspended prior to hearing by order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which bears a significant and/or substantial relationship to the respondent's fitness or capacity to act as a real estate licensee.
- B. Such restricted license may be suspended prior to hearing by order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, regulations of the Real Estate Commissioner and/or conditions attaching to this restricted license.
- C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate salesperson license nor the removal of any of the conditions, limitations or restrictions of said restricted license until one year has elapsed from the date of issuance of said restricted license.

D. Respondent shall submit with his application for license under an employing broker--or his application for transfer to a new employing broker--a statement signed by the prospective employing broker which shall certify:

- (1) That he/she has read the decision of the Commissioner which granted the right to a restricted license; and,
- (2) That he/she will exercise close supervision over the performance by the restricted licensee of the activities for which a real estate license is required.

E. Respondent shall report in writing to the Department as the Commissioner shall direct by his decision herein or by a separate writing issued while the restricted license is in effect. Such report shall concern respondent's activities for which a real estate salesperson license is required and as the Commissioner shall deem appropriate to protect the public interest. Such report(s) may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent, periodic summaries of salient information concerning each real estate transaction in which respondent engaged during the period covered by the report.

F. Respondent shall, within six months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that he has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Re Respondent William Henry Brown

The license and licensing rights of respondent William Henry Brown to act as a real estate broker in the State of California are hereby suspended for one day; provided, however said suspension is herewith permanently stayed.

DATED: FEB. 13, 1986



PAUL J. DOYLE
Administrative Law Judge

PJD:lhj

FILED
JUN 27 1985

BEFORE THE DEPARTMENT OF REAL ESTATE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
WILLIAM EDWARD BROWN and
WILLIAM HENRY BROWN,

By Roshni R. Kalidin
Roshni R. Kalidin

Case No. H-5528 SF

OAH NO. N 25136

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

TO THE ABOVE NAMED RESPONDENT:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at OFFICE OF ADMINISTRATIVE HEARING, STATE BUILDING
455 Golden Gate, Room 2248, San Francisco, California 94102
on the 21st day of November, 19 85, at the hour of 9:00 a.m.,
(One Day)
or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

DATED: June 27, 1985

DEPARTMENT OF REAL ESTATE

By

Joseph McGovern
JOSEPH MCGOVERN

Counsel

COPY

FILED
OCT 28 1985

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

In the Matter of the Accusation of
WILLIAM EDWARD BROWN and
WILLIAM HENRY BROWN,

Case No. H-5528 SF

OAH NO. N 25136

Respondent(s)

CONTINUED
NOTICE OF/HEARING ON ACCUSATION

TO THE ABOVE NAMED RESPONDENT:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, State Building
455 Golden Gate Avenue, Room 2248, San Francisco, CA
on the 10th day of February, 1986, at the hour of 9:00 a.m. (One Day)
or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person, nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

DATED: October 28, 1985

DEPARTMENT OF REAL ESTATE

By

Joseph McGovern
JOSEPH MCGOVERN, Counsel

COPY

JOSEPH McGOVERN, Counsel
DEPARTMENT OF REAL ESTATE
185 Berry Street, Room 5816
San Francisco, CA 94107-1770

(415) 557-3220

FILED
APR 29 1985

DEPARTMENT OF REAL ESTATE

By C. Westbrook
C. Westbrook

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
WILLIAM EDWARD BROWN)
and)
WILLIAM HENRY BROWN,)
Respondents.)

No. H-5528 SF

ACCUSATION

The complainant NORMAN G. CATALANO, a Deputy Real Estate
Commissioner of the State of California, for cause of accusation
against WILLIAM EDWARD BROWN and WILLIAM HENRY BROWN, is informed
and alleges as follows:

FIRST CAUSE OF ACTION

I

That WILLIAM HENRY BROWN (hereinafter respondent Henry)
is presently licensed and/or has license rights under the Real
Estate Law (Part 1 of Division 4 of the Business and Professions
Code).

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II

That at all times herein mentioned, respondent HENRY was licensed by the Department of Real Estate of the State of California (hereinafter the Department) as a real estate broker, dba Better Homes Realty; that said license will expire October 7, 1986.

III

That WILLIAM EDWARD BROWN (hereinafter respondent Edward) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

IV

That at all times herein mentioned respondent Edward was licensed by the Department as a real estate salesperson in the employ of respondent Henry; that said license will expire July 29, 1988.

V

That the complainant, NORMAN G. CATALANO, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity as such and not otherwise, makes this accusation against respondent Edward and respondent Henry and is informed and alleges as follows:

VI

That at all times herein mentioned, NANCY POLLOCK, et al, (hereinafter collectively referred to as Seller) were the owners of the real property commonly known as 466 - 41st Street, Oakland, California (hereinafter The Property); that prior to May 26, 1982,

1 Seller, a licensed real estate broker, listed The Property for
2 sale.

3 VII

4 That on or about May 26, 1982, while licensed and acting
5 in the capacity of a real estate salesperson, respondent Edward
6 prepared a Real Estate Purchase Contract and Receipt For Deposit
7 (hereinafter Deposit Receipt) which contained an offer by Robert
8 and Harriett Newell (hereinafter Buyer) to purchase The Property
9 for THREE HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$345,000); that
10 respondent Edward received from Buyer a deposit of TWO THOUSAND
11 DOLLARS (\$2000) in the form of a personal check (hereinafter The
12 Deposit), payable to the order of Brown Realty, on the purchase of
13 The Property.

14 VIII

15 That on or about May 26, 1982, respondent Edward
16 presented the above-mentioned offer to Seller who, on the same
17 date, executed a counteroffer for THREE HUNDRED FIFTY THOUSAND
18 DOLLARS (\$350,000); that on the same date Buyer accepted said
19 counteroffer.

20 IX

21 That respondent Edward failed to place The Deposit into
22 a trust account or into a neutral depository or into the hands of
23 his principal.

24 X

25 That on or about June 25, 1982, respondent Edward
26 returned The Deposit to Buyer without the knowledge or consent of
27 Seller; that the sale of The Property was never consummated.

That by reason of the facts as hereinabove alleged, respondent Edward has been guilty of acts or omissions in violation of Section 10145 of the Business and Professions Code of the State of California (hereinafter The Code) and Sections 2785(a)(10) and 2832 of Title 10 of the California Administrative Code, and said acts or omissions constitute grounds for disciplinary action under the provisions of Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

There is hereby incorporated into this second, separate, and distinct cause of action all of the allegations contained in Paragraphs I through X of the First Cause of Action with the same force and effect as if more fully set forth herein.

I

That respondent Henry failed to ascertain the whereabouts of the deposit money referred to in Paragraph VII of the First Cause of Action that was received by respondent Edward; that respondent Henry failed to ascertain that respondent Edward returned The Deposit to Buyer without the knowledge or consent of Seller as alleged in Paragraph X of the First Cause of Action.

II

That by reason of the facts as hereinabove alleged respondent Henry has been guilty of acts or omissions, or both, constituting grounds for disciplinary action under the provisions of Section 10177(h) of the Business and Professions Code of the State of California.

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

Norman G. Catalano

NORMAN G. CATALANO
Deputy Real Estate Commissioner

11 Dated at San Francisco, California
12 this 29th day of April, 1985.