

FILED

MAR 18 2013

DEPARTMENT OF REAL ESTATE

By S. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JEANETTE DENOGEAN CHAMPAGNE
and GINA MARIE WEST,

Respondents.

No. H-5921 SAC

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 February 6, 2013, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent JEANETTE DENOGEAN CHAMPAGNE's (Respondent or CHAMPAGNE) express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On October 12, 2012, Tricia Sommers made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondent's last known mailing address on file with the Department of Real Estate (Department) on December 4, 2012 and December 31, 2012.

On February 6, 2013, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code).

3

At all times herein mentioned, Respondent was and is licensed by the Department of Real Estate (Department) as a real estate broker.

4

At all times mentioned, Gina Marie West (West) was and is licensed by the Department as a real estate salesperson. From on or about from December 21, 2006, through March 27, 2011, West was licensed in the employ of Respondent as her employing broker of record. At no time has Gina West been licensed by the Department as a real estate broker.

5

At all times mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(b) of the Code, including, on behalf of others, the operation and conduct of a property management business with the public wherein, for compensation or in expectation of compensation, Respondent leased or rented and offered to lease or rent and placed for rent, and solicited listings of places for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

6

Within the three-year period prior to the filing of the Accusation, in acting as a real estate broker as described in Paragraph 5, Respondent accepted or received funds in trust (trust funds) from or on behalf of tenants, landlords, and/or others in connection with the said real estate purchase and sale activities and property management activities.

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From on or about from December 21, 2006, through March 27, 2011, Respondent employed West to lease or rent and offer to lease or rent and place for rent, and solicit listings of places for rent, and solicit listings of places for rent, and solicit for prospective tenants of real property or improvements thereon, and collect trust funds in the form of rents and security deposits from real property or improvements thereon as set forth in Paragraph 5.

Within the three-year period prior to the filing of the Accusation, in connection with the collection and disbursement of trust funds, the aforesaid trust funds accepted or received by Respondent were deposited or caused to be deposited by said Respondent into a bank account maintained by Respondent as follows:

- a.) At Tri Counties Bank, 1250 Hilltop Drive, in Redding, California, 96002, Account No. XXXX5956, entitled "Gina West DBA Shasta Properties" ("Bank Account #1) with West as the sole authorized signatory on said account.

Within the three-year period prior to the filing of the Accusation, in connection with the collection and disbursement of trust funds, Respondent deposited trust funds or caused trust funds to be deposited into Bank Account #1, which was not designated as a trust account in the name of the broker as trustee as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations) (requiring deposit of trust funds into neutral escrow or into trust fund account in a bank in the name of broker as trustee . . .).

In connection with the collection and disbursement of trust funds, Respondent failed to deposit and maintain the trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of the owners of the funds, as required by Section 10145 of the Code (broker accepting funds of others in connection with transaction requiring license shall deliver funds into neutral escrow, hands of broker's principal, or broker's trust account) in such a manner that there was a trust fund shortage in Bank Account #1 in the approximate sum of \$443.01 as of November 31, 2011.

Within the three year period prior to the filing of the Accusation, in connection with the collection and disbursement of trust funds, Respondent failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Bank Account #1 to an amount less than the existing aggregate trust fund liability to the owners of said funds as required by Section 2832.1 of the Regulations (written consent of every principal owning funds in account shall be obtained by broker prior to each disbursement which will reduce balance of funds to an amount less than existing aggregate trust fund liability of broker to all owners of funds).

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Within the three-year period prior to the filing of the Accusation, in connection with the collection and disbursement of trust funds, Respondent failed to perform, at least once each month, a reconciliation of all the separate beneficiary records with the control record, and/or failed to maintain a record of such reconciliations as required by Section 2831.2 of the Regulations (maintain balance of all separate beneficiary and reconcile funds received with funds disbursed, etc.) for Bank Account #1.

At all times mentioned, Respondent maintained more than one place of business for the purpose of conducting property management activities pursuant to Section 10131(b) of the Code from, and failed to apply for and procure an additional license for the branch office so maintained at, 2285 Hilltop Drive, #204 in Redding, California, in violation of Section 10163 of the Code (broker maintaining more than one place of business in California shall apply for and obtain a license for each branch office) and Section 2715 of the Regulations (broker shall maintain on file with Department main office address, each branch office address and mailing address).

At no time has the Department issued a real estate license to Respondent under fictitious business name of Shasta Properties. At all times herein mentioned, Respondent conducted the property management activities set forth in Paragraph 5, above, under the fictitious business name of Shasta Properties in violation of Section 10159.5 of the Code (every person applying for license desiring to use a fictitious business name shall file with the Department a certified copy of the fictitious business name statement as filed with county clerk) and Section 2731 of the Regulations (licensee may not use fictitious business name in conduct of licensed activity unless a holder of a license bearing such name).

At all times mentioned, Respondent was responsible, as the Employing broker of West, for the supervision and control of the activities conducted on behalf of Respondent by West. Respondent failed to exercise reasonable supervision and control over the property management of West. In particular, Respondent participated in, permitted, ratified, and/or caused the conduct described above, to occur, and failed to take reasonable steps to insure, including, but not limited to, proper transactional record keeping, insure proper trust fund record keeping, insure proper review of trust fund records and accounts, insure that trust funds would be deposited to an account properly designated as a trust account in Respondent's name as broker and trustee, and insure proper supervision of employee's conduct of property management activities.

DETERMINATION OF ISSUES

1

Factual Finding 9 establishes cause for disciplinary action against Respondent pursuant to Section 2832 of the Regulations in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. and §§ 11000 et seq. of the Code, or of the Regulations).

2

Factual Finding 10 establishes cause for disciplinary action against Respondent pursuant to Section 10145 of the Code in conjunction with Section 10177(d) of the Code.

3

Factual Finding 11 establishes cause for disciplinary action against Respondent pursuant to Section 2832.1 in conjunction with Section 10177(d) of the Code.

4

Factual Finding 12 establishes cause for disciplinary action against Respondent pursuant to Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the Code.

5

Factual Finding 13 establishes cause for disciplinary action against Respondent pursuant to Section 10163 of the Code and Section 2715 of the Regulations all in conjunction with Section 10177(d) of the Code and in conjunction with Section 10165 of the Code (commissioner may suspend or revoke license for violations of Sections 10160, 10161.8, 10162 or 10163 of the Code).

6

Factual Finding 14 establishes cause for disciplinary action against Respondent pursuant to Section 10159.5 of the Code and Section 2731 of the Regulations all in conjunction with Section 10177(d) of the Code.

7

Factual Finding 15 establishes cause for disciplinary action against Respondent pursuant to Section 2725 of the Regulations (broker shall exercise reasonable supervision over: licensed employees; establish policies and procedures for compliance with Real Estate Law; supervise transactions requiring a real estate license; trust fund handling; etc.) in conjunction

with Section 10177(d) of the Code and of Section 10177(h) of the Code (suspension or revocation for broker or designated broker/officer who fails to exercise reasonable supervision of licensed employees).

8

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

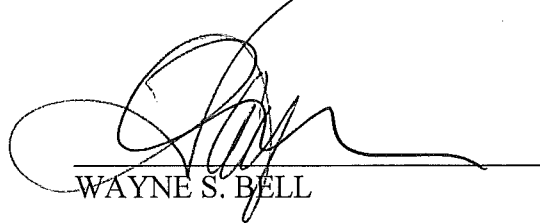
ORDER

All licenses and licensing rights of Respondent under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on APR 08 2013.

DATED: 3/12/2013

REAL ESTATE COMMISSIONER



WAYNE S. BELL