

**FILED**

BEFORE THE BUREAU OF REAL ESTATE

MAY 13 2016

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

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By           p dew          

In the Matter of the First Amended Accusation of )  
) )  
MICHAEL STEPHEN THOMAS and ) CalBRE No. H-6242 SAC  
KEELY ANN STEWART, ) )  
) )  
) AS TO KEELY ANN STEWART  
) ONLY  
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 April 29, 2016. The findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds of embezzlement of trust funds.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau'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.

FINDINGS OF FACT

1

On December 14, 2015, Tricia Parkhurst made the First Amended Accusation in her official capacity as a Supervising Special Investigator of the State of California. The First Amended Accusation, Statement to Respondent, and form for the Notice of Defense were mailed, by certified and regular mail to Respondent at her last known mailing address on file with the Bureau on December 16, 2015.

On April 29, 2016, no Notice of Defense having been filed herein within the time prescribed by Section 1106 of the Government Code, Respondent's default was entered herein.

2

At all times herein mentioned, Respondents were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

3

At all times herein mentioned, Michael Stephen Thomas (herein "Thomas") dba Tahoe Rental Connection (herein "TRC"), was and now is licensed by the State of California Bureau of Real Estate (herein "the Bureau") as a real estate broker with a Mortgage Loan Originator License Endorsement.

4

At all times herein mentioned, KEELY ANN STEWART, (herein "STEWART") was licensed by the Bureau as a real estate salesperson in the employ of Thomas.

5

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

6

In so acting as a real estate broker as described in Paragraph 5, above, Thomas, acting through TRC, accepted or received funds in trust (herein "trust funds") from or on behalf of tenants, owners, and others in connection with real estate leasing, renting, and collection of rents on real property or improvements thereon, and thereafter from time to time made disbursements of said funds.

7

The aforesaid trust funds accepted or received by Thomas, acting through TRC, were deposited or caused to be deposited by Thomas into one or more bank accounts (herein "trust fund accounts") maintained by Thomas for the handling of trust funds at the So. Lake Tahoe, California branch of Bank of the West as follows:

- a) "Dan Shideler DBA Tahoe Rental Connection Real Estate Trust Account," account #xxx-xx6424 (herein "Trust #1"); and
- b) "Dan Shideler DBA Tahoe Rental Connection Real Estate Trust Account." Account #xxx-xx6465 (herein "Trust #2").

Between about October 29, 2014 and about November 14, 2014, an audit was conducted of the records of TRC in connection with the activities described in Paragraphs 5 through 7, above. The auditor herein examined the records for the period between about November 1, 2011 and about October 31, 2014, and found Thomas:

- (a) caused, suffered or permitted the balance of funds in Trust #1 to be reduced to an amount, which as of September 30, 2014, was approximately \$311,959.99, less than the aggregate liability of Thomas to all owners of such funds, without the prior written consent of the owners of such funds, in violation of Section 2832.1 of Chapter 6, Title 10, of the California Code of Regulations (herein "the Regulations");
- (b) failed to place trust funds entrusted to Thomas into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Thomas as trustee at a bank or other financial institution, in conformance with the requirements of Section 10145 of the Code and Section 2832 of the Regulations, in that Thomas placed such funds into Trust Accounts #1 and #2, accounts that were not in the name of Thomas as trustee;
- (c) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records with Trust Accounts #1 and #2, as required by Section 2831.2 of the Regulations;
- (d) authorized Dan S., Ward S. and Anne S., unlicensed persons without fidelity bond coverage, to make withdrawals from Trust Accounts #1 and #2, in violation of Section 2834 of the Regulations;
- (e) failed to obtain written agreements with real estate salespersons Zachary V. M. and Keely A. S., in violation of Section 2726 of the Regulations;
- (f) allowed TRC to conduct licensed activities during a time when TRC was not licensed nor registered with the Bureau as Thomas' DBA, in violation of Section 10130 of the Code; and
- (g) failed to exercise reasonable supervision over the acts of TRC and its agents and employees, in violation of Sections 10159.2, and 10177(g) and (h) of the Code, and Section 2725 of the Regulations.

Between about 2006 and November 14, 2014, STEWART embezzled trust funds in the amount of about \$300,000 from her employer, TRC, in violation of Section 10177(j) of the Code.

#### DETERMINATION OF ISSUES

The facts found above constitute cause under Section 10177(j) of the Code for revocation of all license and license rights of Respondent STEWART under the Real Estate Law.

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

ORDER

The real estate license and license rights of Respondent KEELY ANN STEWART under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on JUN 03 2016 .

DATED: MAY 11, 2016

WAYNE S. BELL  
REAL ESTATE COMMISSIONER

By:   
\_\_\_\_\_  
JEFFREY MASON  
Chief Deputy Commissioner

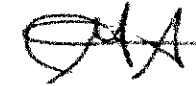
**FILED**

April 29, 2016

BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the First Amended Accusation of	)	
	)	CalBRE No. H-6242 SAC
MICHAEL STEPHEN THOMAS and	)	
KEELY ANN STEWART,	)	DEFAULT ORDER
	)	
	)	<u>AS TO KEELY ANN STEWART</u>
	)	<u>ONLY</u>
Respondents.	)	

Respondent, KEELY ANN STEWART, 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 as to KEELY ANN STEWART.

IT IS SO ORDERED April 28, 2016.

WAYNE S. BELL  
Real Estate Commissioner

By:   
JOE M. CARRILLO  
Regional Manager