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FILED

MAR 02 2016

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) CalBRE No. *H-6314 SAC*
GREGORY SCOTT RUSSELL,)
)
Respondent.)

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On February 8, 2016, a Decision was rendered revoking the real estate broker license of Respondent, GREGORY SCOTT RUSSELL, effective March 02, 2016.

On February 26, 2016, good cause was presented to vacate the Decision of February 8, 2016, and to have the matter remanded to the Office of Administrative Hearings as a contested matter.

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1 NOW, THEREFORE, IT IS ORDERED that the Decision of February 8, 2016, is
2 vacated and that the Matter of the Accusation filed on October 14, 2015, is remanded to the Office
3 of Administrative Hearings.

4 This Order shall be effective immediately.

5 DATED: MARCH 1, 2016

6 WAYNE S. BELL
7 REAL ESTATE COMMISSIONER

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9 By: 
10 JEFFREY MASON
11 Chief Deputy Commissioner
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FEB 10 2016

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

GREGORY SCOTT RUSSELL,

Respondents.

No. H-6314 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 January 12, 2016, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate license on grounds of violations of real estate law.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1

On October 6, 2015, Tricia D, Parkhurst made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondents, and Notice of Defense were mailed, by regular and certified mail,

return receipt requested, to Respondent's last known mailing address on file with the Bureau on October 14, 2015.

On January 12, 2016, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent GREGORY SCOTT RUSSELL (RUSSELL) 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 (the Code) as a real estate broker.

3

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

4

Beginning on March 23, 2015, and continuing intermittently through April 20, 2015, an audit was conducted at RUSSELL'S main office located on 965 East Yosemite Ave., Suite 1A, Manteca, California, where the auditor examined records for the period of January 1, 2014, through January 31, 2015 (the audit period).

5

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, RUSSELL accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by RUSSELL, at Union Bank, P. O. Box 512380, Los Angeles CA 90051, as described below:

BANK ACCOUNT #1	
Account No.:	XXXXXXX0738
Entitled:	MainStreet Realtors Rental Acct

and thereafter from time to time made disbursement of said trust funds.

In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) RUSSELL failed to designate Bank Account #1 as a trust account as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) During an accountability performed on Bank Account #1, as of January 30, 2015, a shortage of \$18,252.19 was revealed, in violation of Section 10145 of the Code;
- (c) RUSSELL failed to obtain written permission from owners of trust funds in Bank Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (d) RUSSELL failed to maintain control records for Bank Account #1, as required by Section 2831 of the Regulations;
- (e) RUSSELL failed to maintain separate beneficiary records for Bank Account #1 as required by Section 2831.1 of the Regulations; and
- (f) RUSSELL failed to perform monthly reconciliations of the separate beneficiary records and control records for Bank Account #1, as required by Section 2831.2 of the Regulations.

DETERMINATION OF ISSUES

1

The acts and/or omissions described above constitute violations of Sections 2831 (control records), 2831.1 (separate beneficiary records), 2831.2 (monthly reconciliations), 2832 (trust fund designation) and 2832.1 (written permission balance below accountability) of the Regulations and of Section 10145 (trust fund handling) of the Code and are grounds for discipline under Section 10177(d) (willful disregard of real estate laws) and/or 10177(g) (negligence/incompetence licensee) of the Code.

2

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

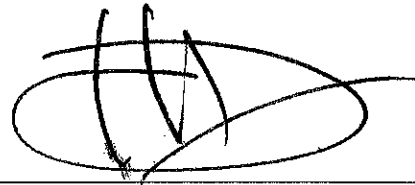
ORDER

All licenses and licensing rights of Respondent GREGORY SCOTT RUSSELL,
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 MAR 02 2016

DATED: February 2, 2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to be 'JM', is written over a horizontal line.

By: JEFFREY MASON
Chief Deputy Commissioner

FILED

Bureau of Real Estate
P. O. Box 137007
Sacramento, CA 95813-7007

JAN 12 2016

Telephone: (916) 263-8670

BUREAU OF REAL ESTATE

By: S. Black

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. <i>H-6314 SAC</i>
	)	
GREGORY SCOTT RUSSELL,	)	<u>DEFAULT ORDER</u>
	)	
Respondent.	)	

Respondent GREGORY SCOTT RUSSELL, 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.

IT IS SO ORDERED January 12, 2016.

WAYNE S. BELL
Real Estate Commissioner

By:

Joe M. Carrillo
JOE M. CARRILLO
Regional Manager