

FILED

FEB 29 2016

BUREAU OF REAL ESTATE

By B. Dew

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	NO. H-6365 SAC
DAVID WILLIAM PRACHT,	)	
	)	<u>ACCUSATION</u>
Respondent.	)	
_____	)	

The Complainant, TRICIA PARKHURST, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity against DAVID WILLIAM PRACHT (herein "Respondent"), is informed and alleges as follows:

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

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

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At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker for compensation or in expectation of compensation within the State of California within the meaning of Section 10131(a) of the Code, whereby Respondent sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity.

On about January 14, 2014, Respondent, in connection with the activities described in Paragraph 3, above, represented buyer, Judy A. (herein "Judy") in the purchase of a property located on Lake Forest Drive, Penn Valley, California (herein "the Property") for a purchase price of about \$189,000.

Between about January 14, 2014, and February 12, 2014, the date escrow closed, Respondent made the following substantial misrepresentations concerning the central heating system on the Property, in violation of Sections 10176(a) and (i) and/or 10177(g):

- 1) Informed Judy that the heating system "didn't work right because it was out of propane." In fact, the heating system could not be inspected because it was out of propane;
- 2) Informed Judy that the heating system "was checked and it works fine." In fact, the heating system was not inspected and did not work fine;
- 3) Informed Judy that the "HVAC guy [McCoy & Bielenberg] had a portable tank" to check the heating system. In fact, McCoy & Bielenberg does not use portable propane tanks to inspect heating systems; and
- 4) Informed Judy that the seller placed an order to obtain propane, but failed to inform her that the purpose of placing the order for propane was to have the heating unit inspected.

On about January 22, 2014, Thomas Real Estate Inspection, Inc. performed a Home Inspection (herein "Home Inspection") for the Property on Judy's behalf.

On about February 3, 2014, Respondent advised Judy to waive the Home Inspection, and had her sign the "Buyer's Inspection Waiver" (herein "Waiver"), despite the warning on the Waiver in bold type, which read: **"Broker recommends that Buyer obtain a home inspection, even if Seller or Broker has provided buyer with a copy of a home inspection report/disclosures obtained by Seller or a previous buyer. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS."** Additionally, Respondent advised Judy to back-date the Waiver to January 20, 2014, all in violation of Sections 10176(a) and (i) and/or 10177(g) of the Code.

The facts alleged in Paragraphs 5 and 7, above, are grounds for the suspension or revocation of the license and license rights of Respondent under Sections 10176(a) and (i) and/or 10177(g) of the Code.

COST RECOVERY

Investigation and Enforcement Costs

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

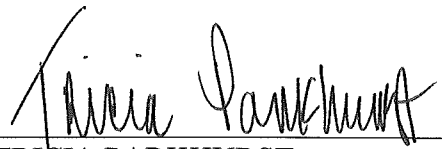
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Real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

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9 TRICIA PARKHURST
10 Supervising Special Investigator

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12 Dated at Sacramento, California,
13 this 24th day of February, 2016.
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