

FILED

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

NOV 18 2016
BUREAU OF REAL ESTATE
By B. Nicholas

In the Matter of the Accusation of	)	CalBRE No. H-6368 SAC
	)	
WILLIE WAHEED HAIDARI,	)	OAH No. 2016040840
	)	
Respondent.	)	

DECISION

The Proposed Decision dated October 20, 2016, 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.

The Decision suspends or revokes one or more real estate licenses.

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.

This Decision shall become effective at 12 o'clock noon on DEC 09 2016

IT IS SO ORDERED

11/17/2016

WAYNE S. BELL
REAL ESTATE COMMISSIONER



BEFORE THE
BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation of:

WILLIE WAHEED HAIDARI,

Respondent.

Case No. H-6368 SAC

OAH No. 2016040840

PROPOSED DECISION

This matter was heard before Administrative Law Judge Erin R. Koch-Goodman, Office of Administrative Hearings, State of California, on September 20, 2016, in Sacramento, California.

Mary F. Clarke, Counsel, represented Tricia Parkhurst (complainant), a Supervising Special Investigator with the Bureau of Real Estate (Bureau), Department of Consumer Affairs, State of California.

~~Mitchell L. Abdullah, Attorney at Law, Abdullah Law Group, P.C., represented~~
Willie Waheed Haidari (respondent), who was present at the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on September 20, 2016.

FACTUAL FINDINGS

1. On September 24, 1991, a real estate salesperson license was issued to respondent. On December 10, 1998, respondent terminated his salesperson's license. On December 11, 1998, a real estate broker license was issued to respondent. Respondent's license was in full force and effect at all times relevant to the charges set forth in the Accusation, and will expire on December 10, 2018, unless renewed or revoked.

2. On February 22, 2016, complainant, in her official capacity, made and filed the Accusation against respondent. On March 15, 2016, respondent filed a Notice of Defense and request for hearing. The Accusation seeks to revoke respondent's broker license based upon his substantial misrepresentations, and dishonest, negligent, and incompetent behavior while negotiating two real estate transactions in 2013. Specifically,

complainant alleges that respondent altered a bank check twice and forged the signature of the buyer, Abdul Malik Jami, on the altered bank check, and submitted the fraudulent documents to the sellers as earnest money for the purchase of two properties.

Respondent's Transactions for Abdul Malik Jami

PURCHASE OF ALTA MESA ROAD, GALT – DECEMBER 2012

3. In December 2012, respondent acted as the buyer's agent and completed the purchase of the property located at 11453 Alta Mesa Road Property, Galt, for Mr. Jami. Mr. Jami paid \$115,296.68 in cash for the home. The deed was recorded on December 3, 2012.

PURCHASE OF DIERKS ROAD, SACRAMENTO – JUNE 2013

4. On June 25, 2013, respondent acted as the buyer's agent and made an offer on the property at 8125 Dierks Road, Sacramento, for Mr. Jami. Respondent transmitted the offer by email to the seller's agent, including, among other things, a photocopy of a check for \$10,000 as earnest money.¹ The check was numbered 461, dated June 25, 2013, payable to "Title," drawn on Bank of America, with the name "Abdul Malik Jami" listed at the top, and purportedly, Mr. Jami's signature at the bottom. The check was redacted to block out the bank account routing number and the physical address below Mr. Jami's name, at the top of the check. The seller's agent forwarded the offer, and accompanying documents to the seller.

5. The seller accepted Mr. Jami's offer and forwarded the purchase packet to Orange Coast Title. Respondent then contacted Orange Coast Title and requested that the Bank of America check be voided. At the same time, Mr. Jami submitted a new check for \$10,000 to Orange Coast Title. The new check was numbered 106, dated June 27, 2013, payable to "Orange Coast Title," drawn on Chase Bank, with the name "A. Malik Jami" and an address, 11453 Alta Mesa Road, Galt, California 95632, listed at the top, and Mr. Jami's signature at the bottom.² Before close, a buyer's addendum was submitted, adding respondent as a 50 percent owner of the Dierks property. Respondent then paid the remaining \$197,247.78 in cash for the property, for a sum total of \$207,879.32. The deed was recorded on July 16, 2013.

¹ Earnest money is a security deposit made by the buyer in real estate transactions, demonstrating his/her willingness and ability to purchase a property. In California, earnest money is held by a title company, once an offer is accepted.

² The signatures on checks 461 and 106 are not the same, although both purport to be Mr. Jami's signature.

SALE OF DIERKS ROAD, SACRAMENTO – OCTOBER 2013

6. In October 2013, respondent acted as the seller's agent and completed the sale of the property located at 8125 Dierks Road, Sacramento, for himself and Mr. Jami. The property sold for \$240,000. After closing costs, Mr. Jami received a check for \$226,325.87.

SALE OF ALTA MESA ROAD, GALT – NOVEMBER 2013

7. In November 2013, respondent acted as the buyer's agent and completed the sale of the property located at 11453 Alta Mesa Road Property, Galt, for Mr. Jami. Mr. Jami received \$226,328.87 in cash from the sale of the property. The deed of sale was recorded on November 13, 2013.

PURCHASE OF SUTHERLAND WAY, ELK GROVE – DECEMBER 2013

8. On November 9, 2013, respondent acted as the buyer's agent and made an offer on the property at 7229 Sutherland Way, Elk Grove, for Mr. Jami. Respondent transmitted the offer to the seller's agent, including, among other things, a photocopy of a check for \$5,000 as earnest money and a Bank of America bank statement from September 2013. The check was numbered 461, dated November 9, 2013, payable to "Title," drawn on Bank of America, with the name "Abdul Malik Jami" listed at the top, and purportedly, Mr. Jami's signature at the bottom. The check was redacted to block out the physical address below Mr. Jami's name at the top of the check, and the check number, immediately following the bank account routing number, at the bottom of the check. The Bank of America bank statement was for September 1, 2013, through September 30, 2013, with a balance of \$333,318.91, and listed Abdul Malik Jami at the top of the statement. The bank statement was redacted to block out the physical address below Mr. Jami's name at the top and the account number.³

9. The seller accepted Mr. Jami's offer and forwarded the purchase packet to LSI Title and Escrow. Respondent then contacted LSI Title and Escrow and requested that the Bank of America check be voided. At the same time, Mr. Jami submitted a new check for \$5,000 to LSI Title and Escrow. The check was numbered 120, dated November 27, 2013, payable to "LSI Title & Escrow," drawn on Chase Bank, with the name "A. Malik Jami" and an address, 11453 Alta Mesa Road, Galt, California 95632, listed at the top, and Mr. Jami's signature at the bottom.⁴ Ultimately, LSI Title and Escrow demanded a wire transfer of the \$5,000, not a personal check; Mr. Jami complied. On December 3 and 4, 2013, Mr. Jami paid the remaining \$211,561.79 in cash for the property.

³ The Bank of America bank statement is not alleged in the Accusation, and therefore, is not considered in causes for discipline.

⁴ The signatures on checks 461 and 120 are not the same, although both purport to be Mr. Jami's signature.

Investigation of Respondent

SACRAMENTO COUNTY WELFARE FRAUD INVESTIGATION OF JAMI

10. In or around February 2013, Sacramento County began a welfare fraud investigation of the Jami family. The investigation was conducted by Everest Robillard, Criminal Investigator II, Sacramento County, Department of Human Assistance. Mr. Robillard wrote a report and testified at hearing, consistent with his report.

11. Mr. Robillard discovered that Mr. Jami executed multiple real estate transactions in 2012 and 2013, while receiving welfare benefits. Mr. Robillard found respondent was a 50 percent owner on the Dierks Road property and represented Mr. Jami in several real estate transactions.

12. On October 30, 2014, Mr. Robillard questioned respondent, at respondent's home in Wilton. Respondent acknowledged that he was Mr. Jami's real estate agent for several real estate transactions in 2012 and 2013. Mr. Robillard showed respondent a copy of a Bank of America check numbered 461 for \$10,000, submitted as earnest money on the Dierks Road purchase offer, and the Bank of America check numbered 461 for \$5,000, submitted as earnest money on the Sutherland Way purchase offer, and the Bank of America bank statement, submitted with the purchase offer for the Sutherland Way property. Respondent admitted submitting the Bank of America documents to the sellers' agents with the offer to purchase the properties at Dierks Road and Sutherland Way. Respondent told Mr. Robillard that he "made" the three documents by cutting, pasting, and photocopying Mr. Jami's information onto his business check, twice, and onto the bank statement, and that he also forged Mr. Jami's signature on the checks. Respondent told Mr. Robillard that the Bank of America checks were not negotiated. As such, no loss occurred and, therefore, no fraud was committed.

13. Mr. Robillard contacted the Bureau and filed a complaint against respondent. Mr. Robillard provided the Bureau with copies of the three Bank of America documents.

BUREAU INVESTIGATION

14. The Bureau assigned the investigation to Shannon Mitra, Special Investigator. In the course of her investigation, Ms. Mitra met with Mr. Robillard and interviewed respondent. Ms. Mitra wrote several memoranda regarding the investigation. She testified at hearing consistent with her writings.

15. On March 19, 2015, Ms. Mitra interviewed respondent. Respondent admitted to altering the Bank of America check and bank statement to make them appear as though the account and checks belonged to Mr. Jami. Respondent also admitted to signing the checks to make them appear as though Mr. Jami had signed them. In addition, respondent admitted to submitting the documents to the sellers' agents to support offers for the purchase of the Dierks Road and Sutherland Way properties by Mr. Jami.

16. During the interview, respondent told Ms. Mitra that he was just trying to help a friend, because the seller would not have accepted his third-party check to secure the purchases. And ultimately, Mr. Jami had the earnest money for both properties. When the title companies were identified, Mr. Jami submitted the amount of \$10,000 to Orange Coast Title for the Dierks Road property and \$5,000 to LSI Title and Escrow for the Sutherland Way property. Ultimately, the altered checks were never negotiated and no fraud was committed. Even still, respondent had offered to pay the earnest money for the Dierks Road property if Mr. Jami did not have it, and to provide Mr. Jami a no interest bridge loan to pay the earnest money on the Sutherland Way house; because respondent and Mr. Jami had talked about going into business together to "flip" houses. Once respondent and Mr. Jami purchased the Dierks Road property together, respondent had considered adding Mr. Jami to his Bank of America account, so that they would have a joint business account for income and expenses associated with their flipping business.

Respondent's Testimony

17. At hearing, respondent admitted to altering the Bank of America check twice, as well as the bank statement and to submitting the three documents to secure the purchase of the Dierks Road and Sutherland Way properties on behalf of Mr. Jami. Respondent admitted using poor judgment when he signed Mr. Jami's name to the Bank of America checks. But ultimately, respondent does not believe that he committed fraud, because the Bank of America checks were never negotiated by the escrow companies and Mr. Jami had the money.

18. In November 2013, respondent's mother became ill and respondent travelled to Germany for eight days to see her. Respondent's mother died one month later. He was distraught during her illness and when she died.

Discussion

19. The submission of fraudulent and non-negotiable checks to secure the purchase of real estate constitutes fraud. The fraudulent checks were misrepresentations to the sellers and thwarted other potential buyers. By his actions, respondent engaged in fraudulent and dishonest conduct.

20. At hearing, respondent failed to acknowledge the wrongfulness of his conduct; taking a "no harm, no foul" approach. He displayed little insight or remorse, and his testimony was generally evasive, self-serving, and lacking in credibility. He had no concerns about creating fraudulent and/or counterfeit documents, forging Mr. Jami's name, and then submitting the documents to the sellers' agents, and subsequently, the financial institutions, and representing them to be accurate, truthful, and negotiable. He did not seem to recognize the dishonest nature of his conduct, the fraud that he perpetrated on the sellers' agents and property owners, here, financial institutions, or his responsibilities as a real estate broker for disclosure and honesty to all parties. When all the evidence is considered, it would be

contrary to the public interest, safety and welfare to allow respondent to retain his license. Consequently, his license must be revoked.

Costs

21. Complainant has requested that respondent be ordered to pay costs for the investigative work conducted by their Special Investigators in the amount of \$1,396.45, and for the enforcement work conducted by their counsel in the amount of \$3,217.35, for a total of \$4,613.80. Complainant submitted declarations explaining and supporting these costs. Respondent did not object to the costs. The time spent and the amount charged by the investigator and counsel were reasonable in light of the legal issues and allegations made against respondent.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 10176, subdivision (a), a real estate license may be revoked if the licensee has made "any substantial misrepresentation." According to Business and Professions Code section 10176, subdivision (i), a real estate license may be revoked if the licensee has engaged in conduct that "constitutes fraud or dishonest dealing." And Business and Professions Code section 10177, subdivision (j), allows the Bureau to revoke a real estate license if the licensee has engaged in any conduct that "constitutes fraud or dishonest dealing."

2. Cause exists to revoke respondent's license, under sections 10176, subdivisions (a) and (i), and 10177, subdivision (j), by reason of Factual Findings 4 and 5, 8 and 9, 12, 15, and 17. Here, respondent made substantial misrepresentations when he submitted fraudulent documents to the sellers' agents, and subsequently, the property owners, in the real estate transactions for the purchase of the Dierks Road and Sutherland Way properties, as well as failed to disclose to the sellers' agents that the documents were fraudulent.

3. Pursuant to Business and Professions Code section 10177, subdivision (g), a real estate license may be revoked if the licensee has "[d]emonstrated negligence or incompetence in performing an act for which he or she is required to hold a license." Cause exists to revoke respondent's license, under section 10177, subdivision (g), by reason of Factual Findings 4 and 5, 8 and 9, 12, 15, and 17. Here, respondent failed to provide actual earnest money (i.e. a negotiable instrument) to the sellers when he made offers on the Dierks Road and Sutherland Way properties.

4. As set forth in Finding 20, when all the evidence submitted in this matter is considered, complainant demonstrated that it would be contrary to the public interest, safety and welfare to allow respondent to retain his license. Consequently, his license must be revoked.

5. Business and Professions Code section 10106, which permits the award of costs, in relevant part, provides:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the department, 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.

6. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of costs sought pursuant to statutory provisions like Business and Professions Code section 10106. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

7. As set forth in Finding 21, complainant seeks \$4,613.80 in investigation and enforcement costs. Respondent was not successful at hearing in getting any of the charges dismissed or reduced. He did not raise a colorable challenge to the proposed discipline. The scope of the investigation was appropriate in light of the alleged misconduct. When all the *Zuckerman* factors are considered, the requested costs are reasonable. Consequently, respondent should be ordered to pay these costs in full to the Bureau. They may be paid over time according to a reasonable payment plan approved by the Bureau or its designee.

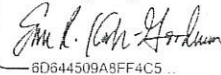
ORDER

1. All licenses and licensing rights of respondent Willie Waheed Haidari under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), including his broker license, are REVOKED, pursuant to Legal Conclusions 1 through 6, jointly and individually.

2. Respondent shall pay costs to the Bureau in the amount of \$4,613.80 within 30 days after the effective date of this decision. The Bureau may establish a reasonable plan for the payment of these costs over time.

DATED: October 20, 2016

DocuSigned by:


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ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings