

JAN 08 2005

Jean Carroll

STATE OF CALIFORNIA

* * *

No. H-6525 SF

Respondent .

On December 2, 2003, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

- 1 -

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate
6 salesperson license and that it would not be against the public
7 interest to issue said license to Respondent.

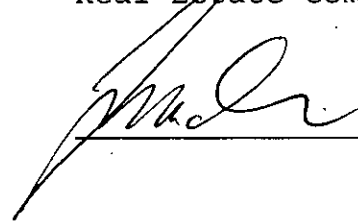
8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 salesperson license be issued to Respondent if Respondent
11 satisfies the following condition within nine months from the
12 date of this Order:

13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 This Order shall be effective immediately.

16 DATED: 1/6-05

17 JEFF DAVI
18 Real Estate Commissioner

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COPY

FILED
FEB 26 1992
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zian

In the Matter of the Accusation of)
HENRY LEE PERKINS,)
Respondent(s).)
No. H- 6525 SF
OAH N- 39305

DECISION

The Proposed Decision dated January 13, 1992,
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.

This Decision shall become effective at 12 o'clock
noon on March 18, 1992.

IT IS SO ORDERED February 25, 1992.

CLARK WALLACE
Real Estate Commissioner

John R. Liberator
By: JOHN R. LIBERATOR
Chief Deputy Commissioner

No. H-6525 SF

OAH No. N 39305

III

At all times pertinent and relevant respondent was licensed by the Department of Real Estate of the State of California (Department) as a real estate salesperson employed by American Suburban Mortgage, Inc. (American), a real estate corporation. Respondent's salesperson license expires on April 25, 1992.

IV

In each transaction set out below, respondent, while acting as the branch manager of American for or in expectation of compensation, assisted borrowers with loan applications; quoted loan rates to borrowers; and requested and accepted funds from each borrower for appraisal and/or credit report fees. The funds received by respondent are found to be "trust funds" as defined in Code section 10145:

<u>Date</u>	<u>Borrower</u>	<u>Amount</u>
7/89	Needham	\$345.00
7/89	Payne	\$295.00
8/89	Woods	\$245.00
9/89	Luis	\$245.00

V

The above amounts paid to respondent by the borrowers were paid, at respondent's direction, by each borrower's personal check drawn to respondent personally and not to American as is required by the Code.

VI

In each transaction set out in Findings of Fact IV, respondent did not deliver the borrowers' funds to American or place the funds into the hands of the respective lender, into a neutral escrow depository, or into American's trust account, as directed by American. In each case, respondent deposited the borrowers' funds into his personal checking account and converted the funds for his own use and purposes.

VII

In the Luis transaction, respondent received a personal check from Luis for \$245.00 on September 27, 1989 but reported receipt of \$50.00 cash to American as Luis' payment for a credit report.

VIII

Respondent testified that he had caused the deposits above listed to be paid to him because in failed transactions, American, his broker, often was slow in rebating the funds to the potential borrowers. This resulted in his receiving numerous phone calls from the borrowers importuning him for their refunds. By depositing these to his own account he believed he could quickly effect a return of funds.

IX

Since the events in question, respondent has terminated his association with American and has been employed for two years by First Prudential Mortgage as a mortgage broker. Since licensure he has always worked in that field, not in sales.

X

Respondent is married and the primary support for his children aged 3 and 7. He is an ordained minister and works only part time as a real estate mortgage broker since being called to a pastorate.

XI

Respondent is now well aware of the requirement of the use of trust funds and the need that checks taken from potential borrowers must never be made to the order of the real estate salesperson involved.

DETERMINATION OF ISSUES

I

The acts and/or omissions of respondent set forth in Findings of Fact IV through VI violate Code section 10145(c) and are grounds for discipline under Code section 10177(d). These acts and/or omissions are also grounds for discipline under Code sections 10176(e), (i) and/or 10177(g). Inasmuch as respondent accepted some part of his compensation directly from the borrowers and not from American, the acts and/or omissions are also grounds for discipline under Code section 10137.

II

The acts and/or omissions of respondent set forth in Findings of Fact VI are grounds for discipline under Code section 10176(i).

PROPOSED ORDER

All licenses and licensing rights of respondent Henry Lee Perkins under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction of plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:
 - a. That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

- b. That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within six months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
6. Respondent shall, within six months from the effective date of the restricted license, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of the restricted license until respondent passes the examination.

DATED: January 13, 1992


ROBERT S. KENDALL
Administrative Law Judge

RSK:lhj

FILED
OCT 15 1991

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Laurie A. Zin

In the Matter of the Accusation of

HENRY LEE PERKINS,

Case No. H-6525 SF

OAH No. N 39305

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office
of Administrative Hearings, 455 Golden Gate Avenue, Room 2248,
San Francisco, CA 94102
on the 3rd day of January, 19 92, at the hour of 9:00 AM, or as soon thereafter
as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 15, 1991

By Larry A. Alamao
LARRY A. ALAMAO Counsel
JOHN VAN DRIEL, Counsel

1 JOHN VAN DRIEL, Counsel
2 Department of Real Estate
3 185 Berry Street, Room 3400
4 San Francisco, California 94107-1770
5 (415) 904-5917

FILED
JUL 16 1991
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zinn*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 HENRY LEE PERKINS,) NO. H-6525 SF
13 Respondent.) ACCUSATION
14 _____)

15 The Complainant, EDWARD V. CHIOLO, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against HENRY LEE PERKINS (Respondent) is informed
18 and alleges as follows:

19 1

20 The Complainant, EDWARD V. CHIOLO, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation against Respondent in his official capacity and not
23 otherwise.

24 2

25 Respondent is presently licensed and/or has license
26 rights under the Real Estate Law (Part 1 of Division 4 of the
27 Business and Professions Code) (Code) as a real estate

1 salesperson.

2 3

3 At all times mentioned herein Respondent was licensed
4 by the Department of Real Estate of the State of California
5 (Department) as a real estate salesperson employed by American
6 Suburban Mortgage, Inc. (American), a real estate corporation.
7 Respondent's salesperson license expires on April 25, 1992.

8 4

9 In the transaction set out below, Respondent, while
10 acting as the branch manager of American for or in expectation
11 of compensation, assisted borrowers with loan applications;
12 quoted loan rates to borrowers; and requested and accepted funds
13 from each borrower for appraisal and/or credit report fees. The
14 funds received by Respondent were "trust funds" as that term is
15 defined in Section 10145 of the Code.

16 <u>Date</u>	<u>Borrower</u>	<u>Amount</u>
17 7/89	Needham	\$345.00
18 7/89	Payne	\$295.00
19 8/89	Woods	\$245.00
20 9/89	Luis	\$245.00

21 5

22 The amounts paid to Respondent by the borrowers as set
23 out above were paid, at Respondent's direction, by each
24 borrower's personal check to Respondent personally and not to
25 American.

26 / / / / /

27 / / / / /

1
2 In each transaction set out in Paragraph 4, Respondent
3 did not deliver the borrowers' funds to American or place the
4 funds into the hands of the respective lender, into a neutral
5 escrow depository, or into American's trust account, as directed
6 by American. In each case, Respondent deposited the borrowers'
7 funds into his personal checking account and converted the funds
8 for his own use and purposes.

9
10 In the Luis transaction, Respondent received a
11 personal check from Luis for \$245.00 on or about September 27,
12 1989 but reported receipt of \$50.00 cash to American as Luis'
13 payment for a credit report.

14
15 The acts and/or omissions of Respondent alleged in
16 Paragraphs 4 through 6 violate Sections 10145(c) of the Code and
17 are grounds for discipline under Section 10177(d) of the Code.
18 Said acts and/or omissions are also grounds for discipline under
19 Sections 10176(e), (i) and/or 10177(g) of the Code. Inasmuch as
20 Respondent accepted some part of his compensation directly from
21 the borrowers and not from American, said acts and/or omissions
22 are also grounds for discipline under Section 10137 of the Code.

23
24 The acts and/or omissions of Respondent alleged in
25 Paragraph 7 are grounds for discipline under Section 10176(i) of
26 the Code.

27 / / / / / / /

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

8
9 *Edward V. Chio*

10 EDWARD V. CHIOLO
11 Deputy Real Estate Commissioner

12 Dated at San Francisco, California

13 this 11th day of JUNE, 19 91.
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