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FILED

MAY 12 2022

DEPARTMENT OF REAL ESTATE
By L. Kuapp

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)
BREANNA MARIE AKERS,) DRE No. H-7093 SAC
Respondent.)

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On April 25, 2022, a Decision was rendered revoking the real estate salesperson license of Respondent, BREANNA MARIE AKERS, effective May 16, 2022.

On May 4, 2022, good cause was presented to vacate the Decision of April 25, 2022, 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 April 25, 2022, is
2 vacated and that the Matter of the Accusation filed on December 29, 2021, is remanded to the
3 Office of Administrative Hearings.

4 This Order shall be effective immediately.

5 DATED: 5.9.22

DOUGLAS R. McCUALEY
REAL ESTATE COMMISSIONER

David R. McNeely

FILED
APR 25 2022
DEPARTMENT OF REAL ESTATE
By J. Taggart

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
BREANNA MARIE AKERS,) No. H-7093 SAC
Respondent.)

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 6, 2022, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes real estate licenses on grounds of violations of the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

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 December 29, 2021, Tricia D. Parkhurst made the Accusation in her official capacity as a Supervising Special Investigator of the State of California against RESPONDENT BREANNA MARIE AKERS (AKERS). The Accusation, Statement to Respondent, and Notices of Defense were mailed, by certified mail, return receipt requested, to RESPONDENT'S last known mailing addresses on file with the Department of Real Estate (Department) on December 29, 2021.

On April 6, 2022, no Notices of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code Respondent's default were entered herein.

2

At all times herein mentioned, AKERS was and is presently licensed and/or has license rights as a real estate salesperson.

3

On or about March 30, 2021, AKERS entered into a Residential Listing Agreement with seller Patricia Yonemura and Frank Yonemura to sell that certain real property commonly known as 4305 39th Avenue, Sacramento, California. (39th Avenue Property)

4

On or about March 30, 2021, AKERS received an offer on the 39th Street Property from Buyers and drafted a Residential Purchase Agreement on their behalf, thereby becoming a dual agent for Buyers as well as the Yonemuras, the sellers.

5

Sometime after the Resident Purchase Agreement was signed by Buyers, AKERS send the Yonemuras a proposed addendum which stated, in part: "Seller shall pay all of the buyers recurring and nonrecurring closing costs." When Yonemura asked why she was being asked to agree to the addendum, AKERS replied: "The mortgage company required it". Yonemura did not sign the addendum.

6

The transaction failed to close and on May 7, 2021, Sellers requested a copy of the contract cancellation form in two separate emails to AKERS. Again on or about May 10, 2021, Buyers requested a copy of the Contract Cancellation from Respondent. AKERS refused to provide a copy of the document until Sellers paid Respondent \$1,000.00 for her time, mileage and expenses.

7

On or about May 25, 2021, the contract cancellation document was provided to Sellers when they contacted Deborah Penny, the designated Officer of eXp Realty, for whom AKERS was working.

8

On or about October 27, 2021, Deborah Penny provided a statement that AKERS was not authorized to demand the \$1,000 payment as a condition to release the contract cancellation document.

9

On or about May 17, 2021, AKERS solicited potential sellers by distributing a flyer door to door. The flyers did not list Respondent's license number.

DETERMINATION OF ISSUES

1

The acts or omissions of BREANNA MARIE AKERS, described above, constitute violations of Sections 10176(a), (b), (i) and 10177 (d), (g) and (j) 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 BREANNA MARIE AKERS 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 MAY 16 2022.

DATED: 4.14.22

DOUGLAS R. McCUALEY
REAL ESTATE COMMISSIONER

Douglas R. McCualey

1 Department of Real Estate
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

FILED

APR 06 2022

5 DEPARTMENT OF REAL ESTATE
6 By X-Knapp

7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13) No. H-7093 SAC

14) BREANNA MARIE AKERS,

15) DEFAULT ORDER

16) Respondent.

17 Respondent, BREANNA MARIE AKERS, having failed to file a Notice of
18 Defense within the time required by Section 11506 of the Government Code, is now in default.
19 It is, therefore, ordered that a default be entered on the record in this matter.

20 APR 06 2022

21 IT IS SO ORDERED _____

22
23 DOUGLAS R. McCUALEY
24 REAL ESTATE COMMISSIONER

25
26
27 _____
28 By: Chika Sunquist
29 Assistant Commissioner, Enforcement